

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jerry Arnette,

Appellate Case No. 2022-000182

Appellant,

V.

South Carolina Public Employee

Benefit Authority, Employee Insurance

Program,

Respondent.

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SC Court of Appeals

RECORD ON APPEAL

VOLUME 1 OF 1

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Appellant, *pro se*

ATTORNEY FOR RESPONDENT

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I certify that this Record on Appeal contains all material proposed to be included by all parties
and contains no matter that is irrelevant to this appeal.

September 1, 2022

s/ Jerry Arnette
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(843) 506-5967
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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Jerry Arnette,

Appellant,

v.

South Carolina Public Employee Benefit
Authority, Employee Insurance Program,

Respondent.

Docket No.: 21-ALJ-30-0222-AP

FINAL ORDER

This matter is before the Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed on June 25, 2021, by Jerry Arnette (Appellant). The Appellant seeks review of the final decision of the South Carolina Public Employee Benefit Authority, Employee Insurance Program (PEBA or Respondent), denying the Appellant's claim for additional long-term disability (LTD) benefits.

BACKGROUND

The Appellant worked for the South Carolina Department of Motor Vehicles as a Driver's License Examiner. His last day of work was February 13, 2017. The Appellant met the Own Occupation Definition of Disability as of February 14, 2017, which was his date of disability, in that he was unable to perform his light level Own Occupation of Driver's License Examiner due to neck, mid and low back pain, and radiculopathy. The Basic Long Term Disability (BLTD) plan has a 90-day Benefit Waiting Period, meaning benefits are payable after the 90-day waiting period if the claimant has been disabled as defined under the plan for the entire 90-day waiting period. The Appellant's 90-day Benefit Waiting Period ended on May 14, 2017, and because he had been disabled from performing his Own Occupation for the entire 90-day Benefit Waiting Period, his BLTD benefits commenced on May 15, 2017.

Under the BLTD plan, the Own Occupation Period occurs during the 90-day Benefit Waiting Period after the date of Disability, and the first twenty-four (24) months of receiving BLTD disability benefits. The Appellant was eligible for BLTD benefits during the Own Occupation Period because he could not perform his light level Own Occupation. The Appellant's claim for benefits was filed on January 10, 2022.

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Administrative Law Court
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Occupation period ended on May 14, 2019. The BLTD further provides that no BLTD Benefits are payable after a person has been disabled for twenty-four (24) months during their entire lifetime, if the disability is caused or contributed to by chronic pain, musculoskeletal and connective tissue conditions. Therefore, for the Appellant to remain eligible for BLTD benefits after the twenty-four month benefit period ending on May 14, 2019, he must be disabled from performing any occupation due to a condition or conditions not limited by the twenty-four (24) month chronic pain, musculoskeletal and connective tissue conditions (the Any Occupation Period).

The Any Occupation Period began on May 15, 2019, the day after the Own Occupation Period expired. The Appellant would be disabled from Any Occupation if, as a result of a nonlimited physical disease, mental disorder or injury, he is unable to perform with reasonable continuity the material duties of any occupation. Any Occupation means any occupation or employment the Appellant is able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy, and in which the Appellant can be expected to earn at least sixty-five (65) percent of his Indexed Predisability Earnings within twelve (12) months following his return to work, regardless of whether the Appellant was working in that or any other occupation. The Standard Insurance Company (Standard) identified alternative sedentary level occupations for which the Appellant has the necessary education, training, and experience; that would pay at least sixty-five (65) percent of the Appellant's Indexed Predisability Earnings; and that are available at one or more locations in the national economy. These alternative sedentary level occupations are appointment clerk, customer complaint clerk, and customer service representative. Standard closed the Appellant's BLTD claim after May 14, 2019, because it determined that he had the capacity to perform the above enumerated alternative sedentary occupations under the Any Occupation standard. The Appellant appealed Standard's decision to close his BLTD claim to the South Carolina Public Employee Benefit Authority (PEBA), and in a letter dated June 17, 2021, PEBA determined that the Appellant's BLTD claim was properly closed after May 14, 2019. This appeal followed.

STANDARD OF REVIEW

PEBA's board of directors has the sole authority to establish the procedures by which Employee Insurance Plan (EIP) decisions are made, and those procedures constitute the exclusive remedy for EIP claims, "subject only to appellate judicial review consistent with the standards

provided in Section 1-23-380.” S.C. Code Ann. § 1-11-710(C) (2021). Accordingly, the Administrative Procedures Act’s standard of review governs appeals from decisions of EIP. *See* S.C. Code Ann. §§ 1-23-380(5) (2008).

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Id.

A decision is supported by “substantial evidence” when the record as a whole allows reasonable minds to reach the same conclusion reached by the agency. *Bilton v. Best W. Royal Motor Lodge*, 282 S.C. 634, 321 S.E.2d 63 (Ct. App. 1984). The well-settled case law in this State has also interpreted the rule to mean that a decision will not be set aside simply because reasonable minds may differ on the judgment. *Lark v. Bi-Lo*, 276 S.C. 130, 276 S.E.2d 304 (1981). The fact that the record, when considered in their totality, present the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency’s finding from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 467 S.E.2d 913 (1996) and *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995).

In applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Co.*, 320 S.C. 515, 466 S.E.2d 357 (1996) (citing *Kearse v. State Health and Human Servs. Fin. Comm’n*, 318 S.C. 198, 456 S.E.2d 892 (1995)). Furthermore, the reviewing court may not substitute its judgment for that of the agency unless the agency’s findings are clearly erroneous in view of the reliable, probative, and substantial evidence in the whole record. *Wilson v. State Budget and Control Bd. Employee Ins. Program*,

374 S.C. 300, 648 S.E.2d 310 (Ct. App. 2007). Finally, the party challenging an agency action has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters*, 321 S.C. 219, 467 S.E.2d 913 (citing *Hamm v. AT&T*, 302 S.C. 210, 394 S.E.2d 842 (1994)).

ISSUES ON APPEAL

Whether PEBA's determination to close the Appellant's Basic Long Term Disability claim is supported by substantial evidence?

DISCUSSION

The Appellant argues that PEBA's decision to close his Basic Long Term Disability claim is clearly erroneous in view of the reliable, probative, and substantive evidence in the record. Specifically, because the Appellant's physicians have opined that he is completely and totally disabled due to lumbar radiculopathy, a non-limited condition under the plan, the Appellant's LTD claim should not have been denied.

During the first 24 months of disability and following the 90-day Benefit Waiting Period, a claimant is entitled to LTD benefits if disabled from performing his Own Occupation. After the first 24 months of disability, a claimant is entitled to additional LTD benefits if he is disabled from performing Any Occupation. The state BLTD Income Benefit Plan (Plan) explains and defines Any Occupation Disability as follows:

During the Any Occupation Period^[1] you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

Therefore, to qualify for additional LTD benefits, a claimant must provide objective medical evidence that his condition prevented him from performing the material duties of Any

¹ For further definitions, see the Record on Appeal, page 35, *et seq.*

Occupation due to a condition or conditions not limited by the 24-month chronic pain, musculoskeletal and connective tissue conditions limitation.

In support of his claim, the Appellant submitted additional information, including medical records, which supported that he had lumbar radiculopathy, a condition excluded from the 24-month coverage limitation. Standard referred the Appellant's claim to its Administrative Review Unit (ARU) for an independent review. The ARU requested an independent medical opinion from a medical specialist, Dr. Rojhani, regarding the cause and extent of the Appellant's limitations and restrictions. Based on Dr. Rojhani's medical opinion, the ARU found that the Appellant had limitations and/or restrictions from working due to his additional diagnosis of lumbar radiculopathy with neurological abnormalities, a condition specifically excluded from the 24-month limitation. Therefore, the ARU returned the Appellant's file to Standard for additional evaluation to determine his eligibility, if any, for additional benefits after May 14, 2019, due to the non-limited condition.

As part of Standard's review to determine whether the Appellant's lumbar radiculopathy and related symptoms prevented him from working in any occupation after May 14, 2019, Standard conducted a vocational assessment to determine whether sedentary strength level jobs existed that he could perform. Based on the Appellant's education, training, and experience, Standard's vocational consultant identified the following sedentary strength level occupations that the Appellant could perform on a reasonably continuous basis with his limitations and restrictions: Real Estate Clerk, Customer Service Representative, and Receptionist. Standard then determined that the Appellant was not entitled to LTD benefits after May 14, 2019, due to lumbar radiculopathy. The Appellant appealed the determination.

Standard's ARU conducted another independent review and requested another independent medical opinion from another medical specialist, Dr. Burke, regarding the Appellant's limitations and restrictions caused by lumbar radiculopathy. Dr. Burke opined that the Appellant's lumbar radiculopathy would require some limitations and restrictions, however, those limitations and restrictions would not preclude full-time work activities. After reviewing the available information, both Dr. Rojhani's and Dr. Burke's opinions, and the identification of alternative sedentary occupations for which the Appellant was qualified for, the ARU upheld the decision to close the Appellant's LTD claim under the Plan's Any Occupation Definition of Disability. The Appellant appealed this determination to PEBA.

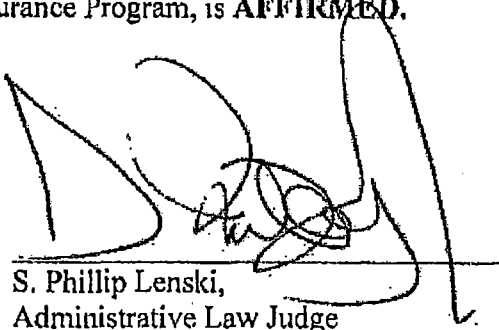
PEBA then conducted a *de novo* review of the Appellant's claim. After reviewing the Appellant's claim and considering all of the evidence in his file, PEBA determined that while the Appellant has limitations due to radiculopathy and neurological abnormalities, those limitations did not prevent the Appellant from working a sedentary level occupation on a full-time basis after May 14, 2019.

In light of the facts articulated above, the court finds that substantial evidence on the record supports the determination of PEBA that the Appellant is not entitled to additional long-term disability benefits. Therefore, based on the foregoing,

ORDER

IT IS HEREBY ORDERED that the determination of the South Carolina Public Employee Benefit Authority, Employee Insurance Program, is **AFFIRMED**.

AND IT IS SO ORDERED.

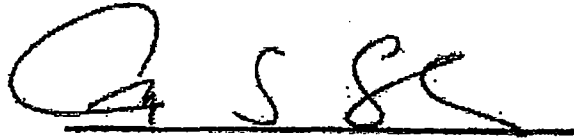


S. Phillip Lenski,
Administrative Law Judge

January 25, 2022
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in black ink, appearing to read 'E S E', is written over a horizontal line.

Erika S. Easler
Judicial Law Clerk

January 25, 2022
Columbia, South Carolina



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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PEBA LEGAL

Jerry Arnette,

Appellant,

vs.

South Carolina Public Employee Benefit
Authority, Employee Insurance Program,

Respondent.

NOTICE OF ASSIGNMENT
(Appeal)

DOCKET NO. 21-ALJ-30-0222-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on June 25, 2021. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2020), the **Honorable S. Phillip Lenski**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to SCALC Rule 4A, all future filings must be filed directly with the above assigned Judge and shall include the docket number.

FURTHER, NOTICE IS GIVEN that the parties are required to meet the following deadlines, unless otherwise ordered by the assigned Administrative Law Judge:

Record on Appeal	Due within forty-five (45) days of the date of this Notice (to be filed by the agency)
Appellant's Brief	Due within thirty (30) days after the Record on Appeal is filed
Respondent's Brief	Due within thirty (30) days after the Appellant's Brief is filed
Reply Brief	Due within ten (10) days after the Respondent's Brief is filed

The parties are directed to the relevant provisions of the Rules of Procedure regarding these deadlines and other requirements applicable to the appeal process. Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scale.net.

This the twenty-ninth day of June 2021.

Ralph King Anderson, III
Chief Administrative Law Judge

By: *Jana E. Shealy*
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

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SC ADMIN. LAW COURT

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jerry Arnette,	)	Docket No.: ____-ALJ-____-____-____
	)	
	)	
	)	
Petitioner,	)	
	)	
vs.	)	NOTICE OF APPEAL
	)	
South Carolina Public Employee	)	
Benefit Authority, Employee	)	
Insurance Program,	)	
	)	
Respondent.	)	

Petitioner hereby gives notice of appeal of the final decision of the PEBA, Employee Insurance Program dated June 17, 2021 (attached as exhibit A). To that end, the undersigned respectfully submits this appeal, the attached denial, and the following.

The information required by Rule 33 is as follows.

A. The name of the party requesting the hearing and the issue(s) for which the hearing is requested:

Jerry M. Arnette
555 Pearlie Road
Dillon, SC 29536

M. Leila Louzri, Esq.
Foster Law Firm, LLC
25 Mills Avenue
Greenville, South Carolina 29605
(864) 242-6200
(864) 233-0290 (facsimile)

B. Generally, this appeal arises from the denial of Petitioner's claim for Basic Long Term Disability benefits under the State of South Carolina health insurance plan. Petitioner fully

exhausted administrative remedies after his claim was denied which resulted in a final denial of his claim by PEBA on June 17, 2021. This claim is subject to South Carolina Code § 1-23-380.

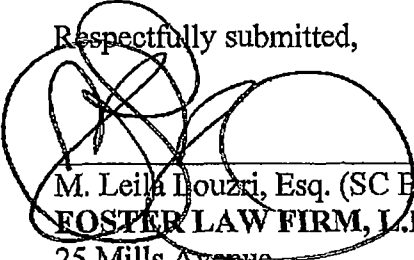
C. A copy of the final decision of June 17, 2021, is attached hereto as exhibit A.

D. There is no transcript that exists relating to this matter and, therefore, none has been ordered.

E. The Certificate of Service of the Notice of Appeal, serving all parties, is attached hereto.

Petitioner respectfully requests all benefits that were due to him from PEBA, attorney's fees and costs, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,



M. Leila Houzri, Esq. (SC Bar #101793)

FOSTER LAW FIRM, L.L.C.

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E-mail: lhouzri@fosterfoster.com

Attorneys for Petitioner

Date: June 23, 2021

Jerry Arnette,

Petitioner,

VS.

**South Carolina Public Employee
Benefit Authority, Employee
Insurance Program,**

Respondent.

0013

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016

FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

M. Leila Louzri*
llouzri@fosterfoster.com
*Licensed in SC and NC

June 23, 2021

Legal Counsel
PEBA Insurance Benefits
202 Arbor Lake Dr.
Columbia, South Carolina 29223

RE: *Jerry Arnette vs. South Carolina Public Employee Benefit Authority, Employee Insurance Program*

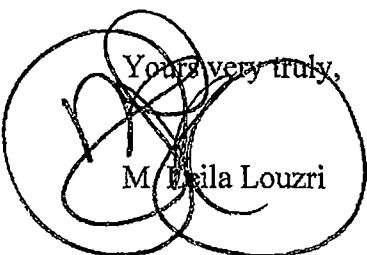
To Whom It May Concern:

We are serving you with the Notice of Appeal in connection with the above referenced lawsuit. Please contact me with any questions or concerns.

With kind regards, I remain

Yours very truly,

M. Leila Louzri



MLL/hmw
Encl.



PEBA

SC Retirement Systems
and State Health Plan

South Carolina Public Employee Benefit Authority
202 Arbor Lake Drive | Columbia, SC 29223
803.737.6800 | 888.260.9430
www.peba.sc.gov

June 17, 2021

M. Leila Louzri, Esquire
Foster Law Firm LLC
25 Mills Avenue
Greenville, SC 29605

RE: **State of South Carolina Basic Long Term Disability Income Benefit Plan**
Subscriber: Jerry Arnette
BIN: 53859853
Issue: Closure of BLTD Claim

Dear Ms. Louzri:

Thank you for your firm's letter to the South Carolina Public Employee Benefit Authority (PEBA) appealing the decision of Standard Insurance Company (The Standard) to close the Basic Long Term Disability (BLTD) claim for your client, Mr. Jerry Arnette (Claimant). The Standard closed Claimant's BLTD claim after May 14, 2019 because Claimant was able to perform sedentary level work with back radiculopathy and neurological abnormalities; Claimant was not Disabled due to any conditions not limited by the 24-month Chronic Pain and Musculoskeletal Conditions Limitations provision of the BLTD Plan. PEBA has not been involved in any prior decisions to deny Claimant's BLTD claim. PEBA fully considered this appeal by reviewing the claim along with the relevant provisions of the State of South Carolina's employer-funded Basic Long Term Disability Income Benefit Plan (BLTD Plan). After its *de novo* review, PEBA concludes that The Standard properly closed Claimant's BLTD claim after May 14, 2019.

Claimant's appeal is limited to the closure of his claim under the BLTD Plan. The Supplemental Long Term Disability Plan (SLTD Plan), for which he individually paid premiums, is fully insured by The Standard, not PEBA. Any decisions regarding SLTD benefits are made by The Standard and not PEBA.

Introduction and BLTD Plan Provisions

The South Carolina Department of Motor Vehicles employed Claimant as a License Examiner I (CDL) beginning on or around November 1, 2014. Claimant's Own Occupation of Driver's License Examiner is a light strength occupation. Claimant's last date worked before claiming Disability was February 13, 2017.

Claimant met the Own Occupation Definition of Disability as of February 14, 2017—his date of disability—because Claimant was unable to perform his light level Own Occupation of Driver's License Examiner due to neck, mid and low back pain and radiculopathy. The BLTD Plan has a 90-day Benefit

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Waiting Period; benefits are payable after the 90-day Benefit Waiting Period if a claimant has been disabled as defined under the Plan for the entire waiting period. Claimant's 90-day Benefit Waiting Period ended on May 14, 2017. Because he had been disabled from performing his Own Occupation for the entire 90-day Benefit Waiting Period, Claimant's BLTD benefits began on May 15, 2017.

Under the BLTD Plan, the Own Occupation Period occurs during the 90-day Benefit Waiting Period after the date of Disability and the first 24 months of receiving BLTD disability benefits. During the Own Occupation Period, Claimant was eligible for BLTD benefits because he could not perform his light level Own Occupation. The Own Occupation Period ended on May 14, 2019.

The BLTD Plan further provides that no BLTD Benefits are payable after a person has been disabled for 24 months during their entire lifetime (exclusive of any Benefit Waiting Periods), if the disability is caused or contributed to by Chronic Pain, Musculoskeletal and Connective Tissue Conditions.

The BLTD Plan defines Chronic Pain, Musculoskeletal and Connective Tissue Conditions as conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

For Claimant to remain eligible for BLTD benefits after May 14, 2019, he must be Disabled from performing Any Occupation due to a condition or conditions not limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation. Claimant would be disabled from Any Occupation if, as a result of a nonlimited Physical Disease, Mental Disorder or Injury, he is unable to perform with reasonable continuity the Material Duties of Any Occupation. The Any Occupation Period began on May 15, 2019 and is the standard under which this appeal is determined.

Any Occupation means any occupation or employment Claimant is able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which Claimant can be expected to earn at least 65% of his Indexed Predisability Earnings within twelve months following his return to work, regardless of whether Claimant was working in that or any other occupation.

The Standard identified alternative sedentary level occupations: 1) for which you have the necessary education, training and experience; 2) that would pay at least 65% of your Indexed Predisability Earnings; and 3) are available at one or more locations in the national economy. These alternative sedentary level occupations are appointment clerk, customer complaint clerk, and customer service representative.

Moreover, the BLTD Plan requires Claimant to establish Proof of Loss that he is Disabled from performing Any Occupation. Proof of Loss under the BLTD Plan means written proof that Claimant is Disabled and entitled to BLTD Benefits. Proof of Loss must be provided at Claimant's expense. For claims of Disability due to conditions other than Mental Disorders, Claimant must provide proof of physical impairment that results from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques

The Standard closed Claimant's BLTD claim after May 14, 2019 because he had the capacity to perform alternative sedentary occupations under the Any Occupation standard.

Claimant appealed the closure of his BLTD claim to PEBA.

Summary of Records

Claimant underwent X-rays of his lumbar spine on May 31, 2016. The X-rays revealed moderate degenerative disc disease from L3-4 through L5-S1 and facet arthritis from L1-2 through L5-S1, appearing most developed at L4-5.

On June 13, 2017, X-rays of Claimant's lumbar spine showed degenerative change that was greatest at the lumbosacral junction and showed no instability.

On July 23, 2017, a CT of Claimant's sinus showed a small mucous retention cyst in the left maxillary sinus and minimal mucosal thickening in the right maxillary sinus.

An EKG on July 24, 2017 revealed non-specific QRS changes and normal sinus rhythm.

On March 12, 2018, Claimant underwent an EMG/NCS which revealed chronic L5 and S1 radicular changes.

Claimant had a normal renal USG on May 26, 2018.

A Holter recording on July 10, 2018 indicated average BP 155/90 mmHg; maximum 163 mmHg systolic, minimum 102 mmHg systolic; maximum 108mmHg diastolic, minimum 48 mmHg diastolic, HR average 70 bpm, maximum 96 bpm, and minimum 37 bpm.

A brain MRI on July 26, 2018 was normal. There was no abnormal echo signal and all appropriate flow voids were present.

On September 28, 2018, an X-ray of the lumbar spine showed moderate degenerative disease of the lumbar spine and multilevel NF stenosis ranging from mild to mild/moderate.

Claimant's lab results on October 31, 2018 were TPO Ab 6 and Testosterone 464 total.

Claimant saw Dr. Fitzgibbon on December 26, 2018 to discuss blood pressure medications and to discuss labs. Claimant was concerned over a recall notice of his blood pressure medicine. Exam findings included normal vitals, regular rate and rhythm, no murmur, clear lungs, and soft, nontender abdomen. Dr. Fitzgibbon listed diagnoses of hyperlipidemia, gout, chronic kidney disease, elevated BP, carotid bruit, and lumbar back pain with radiculopathy.

Claimant underwent a Carotid Doppler test on December 27, 2018, which revealed minimal plaque in the right ICA and normal velocities; mild atherosclerotic plaque in the right external carotid artery; and minimal plaque in the left internal and external carotid arteries.

Claimant returned to Dr. Fitzgibbon on December 27, 2018 to review lab work and carotid studies, which were normal. Claimant had normal vitals on exam. Medications listed included ProAir HFA, antoprazole, Cyclobenzaprine, Montelukast, Breo Ellipta, Flomax, alopurinol, and amlodipine.

Claimant visited Dr. Highsmith (Neurosurgery) on March 7, 2019. Claimant had previous arthroplasty at C5-7 and lumbar decompression at L4-5 for foot drop. Claimant presented with neck, mid and low back pain, as well as pain in the elbows bilaterally and legs bilaterally diffusely to the right ankle. On physical exam, Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited range of motion; and negative straight leg raise.

Dr. Highsmith noted on September 8, 2019, that Claimant suffered mid-back pain radiating into the paraspinal muscles; most of the pain was at the inferior portion of the scapula radiating down. His low back pain was also noted to be radiating to the right foot. Claimant's strength was intact, but he had diminished sensation in the dorsal right foot. Claimant had tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited range of motion; and negative straight leg raise test.

On November 20, 2019, Claimant saw Dr. Fukuda (Urology). Claimant presented with Chronic Kidney Disease and herniated disk with chronic lower urinary tract symptoms thought to be attributable to neurogenic bladder and mild prostatism. Claimant had both obstructive voiding symptoms with a weakened stream and large residuals. Claimant underwent video urodynamic studies on March 23, 2019 that revealed sensory urgency with a stable and compliant bladder with good capacity; however, bladder emptying with markedly impaired and hypotonic bladder (thought to be due to herniated disk). On physical exam, Claimant had normal motor and sensory function and full range of motion of the cervical, thoracic, and lumbar spine.

Claimant returned to Dr. Fukuda on January 22, 2020. Claimant was on Urecholine and Flomax and felt that he was voiding satisfactorily. On physical exam, Claimant had normal motor and sensory function and full range of motion of the cervical, thoracic, and lumbar spine.

On July 31, 2020, Claimant saw Dr. Blitch (Podiatry). Claimant presented with left foot hallux joint pain and right foot numbness in the right hallux that moved through his right foot and leg. On physical exam, Claimant had normal sensation and deep tendon reflexes in the bilateral lower extremities; good muscle strength in all prime movers of the foot/ankle; and crepitus upon range of motion. The 1st ray motion was diminished with pain.

On July 31, 2020, Dr. Highsmith reported Claimant had neck, mid, and low back pain. His neck pain and radicular arm pain had improved since undergoing cervical arthroplasty, but he continued to have neck stiffness at C4-5. Claimant's biggest complaint appeared to be mid-thoracic pain radiating to the chest wall as well as numbness, tingling, and weakness with pain in the right foot. Claimant had multiple thoracic disruptions. Claimant noted increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). On physical exam Claimant had 4/5 strength with right dorsiflexion and hip flexion; otherwise Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative

Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited range of motion; and negative straight leg raise.

Vocational Analysis

A Vocational Consultant performed an analysis of Claimant's transferable skills to assess his employability under the Any Occupation standard. After review of the vocational and medical facts in Claimant's file, the Vocational Consultant identified the following alternative sedentary strength occupations for which Claimant was qualified and had the residual functional capacity and transferable skills to perform: appointment clerk, customer complaint clerk, and customer service representative. The Vocational Consultant determined that these occupations exist in the economy and exceed the 65% of predisability salary requirement in the BLTD Plan's definition of Any Occupation.

The U.S. Department of Labor Dictionary of Occupational Titles, Fourth Edition, revised 1991 describes the strength factors as follows:

Sedentary Work- Exerting up to 10 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull or otherwise move objects, including the human body. Sedentary work involves sitting most of the time but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

These alternative occupations are all entry level positions requiring no additional training or experience. The skills and aptitude levels fall below Claimant's stated education of a Bachelor's degree. He has demonstrated sufficient skills and aptitude levels throughout his education and work history to qualify for employment in all of these occupations.

Physician Consultants

1) Dr. Burke

Dr. Burke, a physician consultant who is Board certified in Neurology, reviewed Claimant's file. Dr. Burke stated that Claimant ceased work on February 13, 2017 due to neck, mid and low back pain and radiculopathy.

Dr. Burke noted that a March 12, 2018 EMG/NCS revealed chronic L5 and S1 radicular changes and a lumbar spine MRI on September 28, 2018 revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. According to Dr. Highsmith on July 31, 2020, Claimant reported neck, mid and low back pain. Dr. Highsmith indicated Claimant's neck pain had improved since undergoing cervical arthroplasty as well as radicular arm pain, but he had neck stiffness at C4-5. Claimant's biggest complaint was mid-thoracic pain radiating to the chest wall. Claimant had multiple thoracic disruptions. Claimant also had increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). On physical exam Claimant had 4/5 strength with right dorsiflexion and hip flexion; otherwise Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of

motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited range of motion; and negative straight leg raise.

Dr. Burke indicated that Claimant's supported diagnoses included lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. Dr. Burke opined that these supported diagnoses are caused or contributed to by diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. Dr. Burke further opined that if those conditions are excluded, there is no evidence of impairment from fulltime work activities within a reasonably consistent, 40 hour/week work schedule after June 1, 2020.

Dr. Burke stated, however, that Claimant had diagnoses that were caused, contributed to and/or considered herniated discs with neurological abnormalities documented by EMG and CT or MRI and radiculopathies documented by EMG as of June 1, 2020. But Dr. Burke opined that Claimant had no limitations or restrictions from performing full-time work due to lumbar radiculopathy, L5-S1, axial neck pain, axial low back pain, and axial mid back pain. While Claimant had some restrictions and limitations due to these conditions, these restrictions would not preclude full-time work activities. Claimant's exams documented 4/5 strength with right dorsiflexion and hip flexion, diminished sensation in the dorsal right foot distally, tenderness in the midline from C3-7 with limited ROM, and tenderness in the midline from L2-S1 with limited ROM.

Dr. Burke opined that as of June 1, 2020 and continuing beyond, Claimant had the following limitations:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead - frequently

desk level - constantly

below waist activities - frequently

Use lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted bilateral upper extremity

Simple and firm grasping: unrestricted bilateral upper extremity

Dr. Burke therefore opined that Claimant's abilities were sustainable on a full-time basis with the above restrictions and limitations.

2) Dr. Rojhani

Dr. Rojhani, a physician consultant who is Board certified in Physical Medicine and Rehabilitation and an Interventional Pain and Spine Medicine Fellow, reviewed Claimant's file. Dr. Rojhani noted Claimant had the following supported diagnoses: axial neck pain; axial low back pain; cervical disc disruption C4-C5, status post C5-C7 anterior cervical discectomy, arthroplasty; lumbar disc disruption L3-S1, status post L5 posterior decompression; axial midback pain; and chronic L5-S1 radicular changes.

Dr. Rojhani indicated the following diagnoses were not supported by the record: multi-joint polyarthropathy and hallux rigidus. Dr. Rojhani stated there was no imaging evidence of arthritis documented (excluding cervical and lumbar spine - spondylosis). There was also no specific evaluation of Claimant's lower extremities.

Dr. Rojhani noted that Claimant had lower back, right leg and right foot pain. On examination, Dr. Highsmith noted tenderness on Claimant's cervical, thoracic and lumbar paraspinous muscles. There were palpable thoracic and lumbar paraspinous muscle spasms. Trigger points were noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. There was also moderate to severe tenderness from L3 to S1 with limited range of motion. His X-ray showed multilevel degenerative changes, most notably from L3-S1. His thoracic MRI exhibited multilevel disc disruptions at T1-2 and from T6 to T9. Claimant had an extensive history related to lumbar degenerative disc disease and radiculopathy.

Dr. Rojhani stated that Claimant had cervical and lumbar disc disruption with chronic L5- S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue" and spondylotic changes were arthritic changes of the vertebrae that constitute "arthritis". Dr. Rojhani opined that if restrictions and limitations caused by Claimant's disorders of the cervical and lumbosacral back were excluded, Claimant's impairment from full-time work activities within a reasonably consistent, 40 hour/week work schedule, was not supported after May 14, 2019.

Dr. Rojhani found, however, that Claimant had documented chronic L5-S1 radicular changes. His EMG on March 12, 2018 reflected this and confirmed radiculopathy. Claimant also had evident neurological abnormalities. Dr. Rojhani opined that only considering the restrictions and limitations caused by/related to Claimant's lumbar radiculopathy and neurological abnormalities, Claimant had the following limitations:

Sitting: Unrestricted

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Climbing stairs: Occasionally

Balancing: Occasionally

Stooping: Never

Kneeling: Never

Crouching: Never

Crawling: Never

Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands

Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

3) Dr. Lewis

Dr. Lewis, a physician consultant who is Board certified in Internal Medicine, reviewed Claimant's file. Dr. Lewis noted Claimant last worked on February 13, 2017 due to neck pain and underwent 2-level anterior cervical discectomy and fusion on March 6, 2017. Prior to then, Claimant had already undergone lumbar microdiscectomy with decompression in May 2016. Since Claimant ceased work, he had also undergone cataracts and septoplasty surgeries, and had been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint poly arthropathies and hallux rigidus.

Dr. Lewis opined that Claimant's supported conditions included:

COPD

Hypertension

Gout

Testosterone Deficiency, stable on supplement

Hyperlipidemia

Multi-joint arthropathies

Sinusitis

CKD

Cervical DDD, cervicalgia, s/p ACDF

Lumbar DDD with radiculopathy, lumbago, s/p lumbar discectomy

Cataracts

Hallux rigidus

Dr. Lewis stated that Claimant had diseases or disorders of the cervical and lumbosacral back. Claimant also had arthritis, specifically spondylosis involving both the cervical and lumbar spine. Spondylosis is the term to describe arthritic changes of the vertebrae.

Claimant had a long-standing history of hypertension, hyperlipidemia, COPD, gout, testosterone deficiency, chronic kidney disease, sinusitis. Dr. Lewis opined, however, there were no functionally impairing limitations resulting from these internal medicine conditions because Claimant had been stable and compliant with treatments. Dr. Lewis stated that Claimant's providers had not discussed recommended restrictions pertinent to these internal medicine conditions; rather, records included specific recommendations for cervical and lumbar disease history with radiculopathy.

Dr. Lewis further observed that while Claimant had COPD, he did not have a specific diagnosis of asthma. Both conditions are lung diseases, however, COPD manifests with chronic bronchitis and emphysema changes, while asthma manifests with allergy/trigger induced respiratory abnormalities. There was no such documentation in Claimant's file.

Dr. Lewis therefore opined that Claimant's internal medicine conditions did not result in limitation:

Hypertension diagnosis was supported; previously hypertension was uncontrolled, however, there was no documentation of hypertensive complications, urgency/ crisis to impact functionality. Compliance to

treatment was anticipated to result in stabilization, which was evidently established based on the normalized vitals.

COPD diagnosis was supported; but Claimant's COPD was stable, with no documentation of a current respiratory insult/difficulty, desaturation at rest or further complications.

Chronic Kidney Disease diagnosis was supported; but Claimant's Chronic Kidney Disease was not functionally impairing. There were no renal-associated complications, volume/electrolyte/metabolic abnormalities documented.

Testosterone Deficiency diagnosis was supported; but Claimant's Testosterone Deficiency was stable with a supplement as Claimant maintained physiological levels.

Hyperlipidemia diagnosis was supported; but hyperlipidemia was not functionally impairing. There was no documentation of specific lipid associated complications.

Multi-joint arthropathies were supported: Claimant likely had generalized arthritis; there was no internal medicine associated condition that explained Claimant's symptoms.

Sinusitis diagnosis was supported; but sinusitis was not functionally impairing. Claimant had no active infection or complications to impact functionality.

PEBA's Determination

For Claimant to remain eligible for BLTD benefits after May 14, 2019, he must be Disabled from performing Any Occupation due to a condition or conditions not limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation. Claimant would be disabled from Any Occupation if, as a result of a nonlimited Physical Disease, Mental Disorder or Injury, he is unable to perform with reasonable continuity the Material Duties of Any Occupation. The Any Occupation Period began on May 15, 2019 and is the standard under which this appeal is determined.

Based on PEBA's review of the information in Claimant's file, along with the persuasive opinions of Dr. Burke, Dr. Rojhani, and Dr. Lewis, PEBA finds that after May 14, 2019, Claimant does not have limitations and restrictions that would preclude performance of the Material Duties of sedentary alternative occupations under the Any Occupation standard due to any condition not limited by the 24-month Chronic Pain and Musculoskeletal and Connective Tissue Condition Limitation.

1) Chronic Pain and Musculoskeletal and Connective Tissue Condition Limitation.

The BLTD Plan defines Chronic Pain, Musculoskeletal and Connective Tissue Conditions as conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

PEBA finds that Claimant's back pain conditions fall within the ambit of the definition of Chronic Pain, Musculoskeletal and Connective Tissue Conditions under the BLTD Plan and are limited to 24 months of

benefits. Dr. Burke opined that lumbar radiculopathy, axial neck pain, axial low back pain, axial mid back pain are caused or contributed to by diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. Likewise, Dr. Rohjani stated that Claimant had cervical and lumbar disc disruption with chronic L5- S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue". Thus, Dr. Burke and Dr. Rohjani found that all these enumerated conditions would constitute diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue. PEBA agrees.

Given that Claimant reached his lifetime 24-month limit for BLTD benefits due to the Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation on May 14, 2019, PEBA finds that he is not eligible to receive BLTD benefits after May 14, 2017 for neck and back pain, or for any other Chronic Pain, Musculoskeletal and Connective Tissue Conditions. Under the BLTD Plan, each Limited Chronic Pain, Musculoskeletal and Connective Tissue Condition does not have a separate lifetime 24-month maximum pay period. There is one lifetime 24-month limitation period for all conditions that are Chronic Pain, Musculoskeletal and Connective Tissue Conditions. Once BLTD benefits have been paid to a member for 24 months because of a Disability that has been caused or contributed to by any Chronic Pain, Musculoskeletal And Connective Tissue Condition, then BLTD benefits cannot continue to be paid to that member in the future based on that or any other such conditions. This is the case even if a new Chronic Pain, Musculoskeletal and Connective Tissue Condition begins and/or is diagnosed on a different date than the initially impairing medical conditions, and even if the member continues to be impaired from work due to any such conditions after the end of the 24-month Limited Pay Period. Thus, no BLTD benefits are payable to Claimant after May 14, 2019 with respect to any Chronic Pain, Musculoskeletal and Connective Tissue Condition he has, regardless of when such condition was diagnosed, or whether he continues to be impaired as a result of such condition.

2) Nonlimited Conditions

Dr. Burke and Dr. Rohjani both opined that if Claimant's Chronic Pain and Musculoskeletal and Connective Tissue conditions are excluded from consideration, Claimant would not be precluded from performing full-time sedentary work due to any nonlimited conditions. PEBA agrees.

a) Radiculopathy and Neurological Abnormalities

The BLTD Plan provides that Disabilities as a result of the following conditions are not limited by the by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Condition Limitation: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or psoriatic arthritis, herniated discs with neurological abnormalities that are documented by electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, diskitis, or Pagett disease.

Dr. Burke found that Claimant had diagnoses that were caused, contributed to and/or considered herniated discs with neurological abnormalities documented by EMG and CT or MRI and radiculopathies documented by EMG as of June 1, 2020. Similarly, Dr. Rohjani determined that Claimant had documented chronic L5-S1 radicular changes. His EMG on March 12, 2018 reflected this and confirmed radiculopathy. Claimant also had evident neurological abnormalities. Thus, PEBA finds that any Disability

resulting from radiculopathy or neurological abnormalities would not be limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Condition Limitation.

Based on the opinions of Dr. Burke and Dr. Rohjani, PEBA finds that Claimant is not Disabled from performance of a sedentary level occupation due to radiculopathy or neurological abnormalities. While PEBA finds that Claimant has limitations due to radiculopathy and neurological abnormalities, Dr. Burke and Dr. Rohjani both opined that Claimant's limitations due to radiculopathy or neurological abnormalities exceed the sedentary level limitation of exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently.

Dr. Burke opined that Claimant had no limitations or restrictions from performing full-time work due to lumbar radiculopathy, L5-S1, axial neck pain, axial low back pain, and axial mid back pain. Dr. Burke opined that as of June 1, 2020 and continuing beyond, Claimant had the following limitations:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead - frequently

desk level - constantly

below waist activities - frequently

Use lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted bilateral upper extremity

Simple and firm grasping: unrestricted bilateral upper extremity

Dr. Burke therefore opined that Claimant's abilities were sustainable on a full-time basis with the above restrictions and limitations. PEBA agrees and observes, as noted above, that the limitations set out by Dr. Burke indicate Claimant has exertional capabilities beyond the exertional limits for a sedentary level occupation.

Moreover, Dr. Rohjani opined that only considering the restrictions and limitations caused by/related to Claimant's lumbar radiculopathy and neurological abnormalities, Claimant had the following limitations:

Sitting: Unrestricted

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Climbing stairs: Occasionally
Balancing: Occasionally
Stooping: Never
Kneeling: Never
Crouching: Never
Crawling: Never
Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands
Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

Again, PEBA notes that the limitations recommended by Dr. Rohjani indicate Claimant has exertional capacities that exceed the exertional requirements for sedentary-level work under the Any Occupation standard.

PEBA further finds that Claimant failed to provide Proof of Loss that he is Disabled from performing a sedentary level occupation due to radiculopathy or neurological abnormalities; Claimant failed to provide proof of physical impairment that would preclude the performance of sedentary work regarding radiculopathy or neurological abnormalities that resulted from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

b) Other Internal Medicine Conditions

Regarding Claimant's internal medicine conditions other than his back pain and back conditions, Dr. Lewis found Claimant had a long-standing history of hypertension, hyperlipidemia, COPD, gout, testosterone deficiency, chronic kidney disease, and sinusitis. Dr. Lewis opined, however, that Claimant had no functionally impairing limitations resulting from these internal medicine conditions because Claimant had been stable and compliant with treatments. PEBA agrees.

PEBA finds that Claimant has failed to provide Proof of Loss that he has physical impairment due to the above-enumerated internal medicine conditions; Claimant failed to provide proof of physical impairment regarding these internal medicine conditions that resulted from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Dr. Lewis noted Claimant had no documentation of complications due to hypertension that would impact functionality. Dr. Lewis found that Claimant's COPD was stable, with no documentation of a current respiratory difficulty, desaturation at rest or further complications. Dr. Lewis opined Claimant's Chronic Kidney Disease was not functionally impairing because there were no renal-associated complications, volume/electrolyte/metabolic abnormalities documented. Likewise, Dr. Lewis determined that Claimant's Testosterone Deficiency was stable with a supplement. Dr. Lewis concluded that Claimant was not functionally impaired due to hyperlipidemia; there was no documentation of specific lipid associated complications. Claimant had multi-joint arthropathies, but Dr. Lewis did not identify any functional limitations due to this condition. Finally, Dr. Lewis indicated that Claimant was not functionally impaired due to sinusitis; Claimant had no active infection or complications to impact functionality.

Moreover, Dr. Lewis stated that Claimant's providers had not discussed recommended restrictions pertinent to these internal medicine conditions; rather, records included only specific recommendations for cervical and lumbar disease history with radiculopathy.

Therefore, PEBA finds that Claimant is not Disabled from performing a sedentary level occupation regarding any of the internal medicine conditions identified by Dr. Lewis.

3) Conclusion

While PEBA acknowledges that Claimant has been determined to be eligible to receive Social Security Disability benefits, PEBA notes that this determination was based on a different standard and is not binding regarding his BLTD benefits. In making its disability determination, the Social Security Administration considered Claimant's age and ability to perform "past relevant work". By contrast, the decision in this matter is whether Claimant can perform suitable alternative sedentary occupations based on his functional capacity, and his education, training and experience. A Vocational Consultant identified three sedentary level alternative occupations: appointment clerk, customer complaint clerk, and customer service representative. PEBA finds: 1) Claimant has the necessary education, training and experience for these occupations; 2) these occupations would pay at least 65% of Claimant's Indexed Predisability Earnings; and 3) these occupations are available at one or more locations in the national economy.

Therefore, PEBA finds that the medical records do not support that Claimant has limitations or restrictions due to any nonlimited conditions, including radiculopathy, neurological abnormalities or other enumerated internal medicine conditions, that would have impaired his ability to perform Any Occupation on a full-time basis after May 14, 2019. PEBA finds that Claimant is not Disabled from radiculopathy, neurological abnormalities or other enumerated internal medicine conditions, whether each condition is considered individually, or in combination with one or more other conditions. Accordingly, PEBA concludes that Claimant's BLTD claim was properly closed after May 14, 2019.

This determination has been made in good faith under the terms and conditions of the Plan. Nothing in the decision should be construed as a waiver of any rights or defenses under the Plan or state law, whether or not specifically mentioned in the decision.

Claimant's right to appeal through PEBA has been exhausted. In accordance with instruction from the Administrative Law Court (ALC), the next level of appeal is to the ALC in its appellate jurisdiction pursuant to S.C. Code Ann. § 1-23-600(D). The contact information for the ALC is:

Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

An appeal is commenced by filing a notice of appeal with the ALC within 30 days of receipt of this letter. If you need any further information regarding your appeal, please contact the ALC at 803.734.0550. If you choose to appeal to the ALC, please note the following address for serving PEBA:

Legal Counsel - PEBA
202 Arbor Lake Dr.
Columbia, South Carolina 29223

PEBA appreciates your patience in this matter. If further assistance is required of this office, please contact the Insurance Appeals Division at IAD@peba.sc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. Van Camp". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen R. Van Camp
General Counsel, PEBA

SRV

cc: Nicole Smushko, Standard Insurance Company
Robin Judisky, Standard Insurance Company

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

COPY

Jerry Arnette,)
)
Appellant,)
)
vs.)
)
South Carolina Public)
Employee Benefit Authority,)
Employee Insurance Program,)
)
Respondent.)

Docket No.: 21-ALJ-30-0222-AP

APPELLANT'S BRIEF

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The State of South Carolina
FILED
OCT 07 2021
Administrative Law Court

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jerry Arnette,

Appellant,

VS.

South Carolina Public
Employee Benefit Authority,
Employee Insurance Program,

Respondent.

Docket No.: 21-ALJ-30-0222-AP

APPELLANT'S BRIEF

I. STATEMENT OF ISSUE ON APPEAL

Appellant Jerry Arnette (hereinafter "Appellant") appeals the decision of Respondent, South Carolina Public Employee Benefit Authority, Employee Insurance Program (hereinafter "PEBA"), under the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310 *et. seq.* (1986 and Supp. 2006), to deny his claim for basic long term disability benefits (hereinafter "LTD").

This action is one for judicial review by the Administrative Law Court pursuant to South Carolina Code Ann. § 1-23-380 of PEBA's decision under the State of South Carolina LTD Plan (hereinafter "Plan"). The specific issues on appeal are whether or not Appellant's benefits under the plan limited to twenty-four months under the Musculoskeletal and Connective Tissue Conditions Limitation in the policy and/or disabled from performing any occupation due to non-limited conditions. Appellant requests that the Administrative Law Court reverse PEBA's denial of LTD benefits because the decision was clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

II. STATEMENT OF THE CASE

Appellant was employed with the South Carolina Department of Motor Vehicles in Field Services. (R. 897). As an employee of the South Carolina Department of Motor Vehicles, Appellant was a participant in the State Basic Long Term Disability Plan. Appellant was forced to cease working in February 2017 due to disc disease, facet arthropathy, osteoarthritis, and lumbar radiculopathy. Appellant filed a claim for basic LTD benefits with Standard Insurance Company. Standard approved his claim for twenty-four months. Standard denied Appellant's claim effective May 14, 2019, asserting that his benefits were limited to twenty-four months under the Musculoskeletal and Connective Tissue Condition Limitation in the policy. (R. 142-44). Standard later denied Appellant's claim asserting that he was not disabled from any occupation from any non-limited medical conditions. (R. 070-73). After exhausting all appeals with Standard, Appellant appealed the denial to PEBA. (R. 055-56). On March 19, 2021, PEBA issued the final denial for Appellant's LTD claims, stating:

"Therefore, PEBA finds that the medical records do not support that Claimant has limitations or restrictions due to any nonlimited to conditions, including radiculopathy, neurological abnormalities or other enumerated internal medicine conditions, that would have impaired his ability to perform Any Occupation on a full-time basis after May 14, 2019. PEBA finds that Claimant it is not Disabled from radiculopathy, neurological abnormalities or other enumerated internal medicine conditions whether each condition is considered individually, or in combination with one or more other conditions. Accordingly, PEBA concludes that Claimant's BLTD claim was properly closed after May 14, 2019." (R. 014).

Appellant then timely served his Notice of Appeal with this Administrative Law Court.

III. APPLICABLE PLAN TERMS

Appellant believes the following plan terms are relevant:

"DEFINITION OF DISABILITY

...

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation." (R. 022).

"A. Limitation

No LTD Benefits are payable after you have been disabled for 24 months during your entire lifetime (exclusive of any Benefit Waiting Periods), if your Disability was caused or contributed to by the following, or medical or surgical treatment of the following:

...

5. Chronic Pain, Musculoskeletal And Connective Tissue Conditions. Chronic Pain, Musculoskeletal And Connective Tissue Conditions means conditions such as fibromyalgia, reflex sympathetic, dystrophy, or myofascial pain, carpal tunnel, or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles

However, Disabilities as a result of the following conditions are not limited: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, discitis, Paget's disease." (R. 031).

IV. STATEMENT OF SUBSTANTIVE FACTS FROM THE RECORD ON APPEAL

Appellant does continue to be completely and totally disabled due to lumbar radiculopathy, a non-limited condition under the policy.

Appellant is or has been treated by Dr. Jason Highsmith and Dr. Edward Tavel.

On March 12, 2018, Appellant underwent an EMG (electromyogram) which concluded:
"Needle EMG of the right leg reveals chronic L5 and S1 radicular changes." (R. 447-49).

On September 18, 2019, Appellant was treated by Dr. Highsmith, who noted that Appellant suffered from "Chronic L5-S1 radicular changes." (R.175). He also noted that "Unfortunately, the patient has been with disabling chronic radiculopathy with neurologic deficits and pain. He cannot take standard nonsteroidal anti-inflammatories which would be helpful in treating his pain, but symptoms certainly qualify him for disability." (Id).

On or around January 20, 2020, Dr. Highsmith completed a statement on Appellant's behalf:

1. I am medical doctor licensed to practice in the state of South Carolina, and I practice in Charleston, South Carolina. I am board certified in Neurosurgery. I have been asked by my patient, Mr. Jerry Arnette, to provide this statement to be used in his quest for disability insurance benefits. This statement is based upon my medical education, experience, my specific knowledge of Mr. Arnette's medical problems and treatment history.

2. Mr. Arnette suffers from radiculopathy. Subjectively, as a result, he suffers:

- a) chronic back pain;
- b) tingling in feet and legs;
- c) radiating pain in feet and legs;
- d) decreased sleep;
- e) fatigue;
- f) muscles aches.

His activities are limited as follows:

- i) He has difficulty performing some activities of daily living;
- ii) He cannot perform any activity for an extended period of time;
- iii) He cannot sit, stand, or walk for prolonged periods of time;
- iv) Because of his medical conditions it is difficult for him to maintain a consistent schedule;
- v) He cannot lift more than 10 lbs.

Mr. Arnette's subjective symptoms are consistent with his diagnosed conditions.

3. Mr. Arnette is treatment compliant, and he currently takes Amlodipine, Gabapentin, Allopurinol, Bethanechol, Cyclobenzaprine, Tamulosin, Pantoprazole and Tramadol.

4. It is my understanding from Mr. Arnette that his disability insurance provider has terminated benefits asserting that his disability claim is limited to twenty-four months.

5. I have been advised that the disability policy in question contains a definition of disability as follows:

B. Any Occupation Definition of Disability

During the Any Occupation Period, you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

6. It is my opinion, based upon my medical education and experience and based upon my specific knowledge of Mr. Arnette's problems and treatment history that he is and has been disabled, as a result of his radiculopathy, from performing any occupation, consistent with the definition of disability above. I render my opinion based upon Mr. Arnette's diagnosis of radiculopathy and the subjective symptoms he suffers. It is my opinion that he has been so disabled since February 2017 and that he will remain so indefinitely into the future." (R. 156-57)

V. RESPONDENT'S REVIEWING PHYSICIANS

On February 13, 2020, Dr. Solomon Rojhani reviewed Appellant's claim and opined:

"3. Are any of the claimant's diagnoses caused, contributed to and/or considered any of the following as of 05/14/19 and continuing beyond?

- neurologic diseases;**
- asthma or allergy -induced reactive lung disease**
- demyelinating diseases, lupus, rheumatoid or psoriatic arthritis;**
- herniated discs with neurological abnormalities documented by EMG, and CT or MRI;**
- radiculopathies that are documented by EMG;**
- spondylolisthesis, grade II or higher, myelopathies and/or myelitis?**

Yes, the provider documented chronic L5-S1 radicular changes. His 3/12/18 EMG reflected this and confirmed radiculopathy. The claimant also had evident neurological abnormalities.

4. If so, and any such conditions result in any type of limitations/restrictions as of 05-15-19 and continuing beyond, which would impair him from performing full-time work activities, please list those conditions and the limitations/restrictions they cause. Again, please explain the medical information/reasoning that supports your conclusions.

The claimant has had lower back, right leg and right foot pain (9/18/19, Dr. Highsmith). On examination, tenderness was noted on his cervical, thoracic and lumbar paraspinal muscles. There were palpable thoracic and lumbar paraspinal muscle spasms. Trigger points were noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. There were also moderate to severe tenderness from L3 to S1 with limited range of motion. His X-ray showed multilevel degenerative changes, most notable from L3-S1. His thoracic MRI exhibited multilevel disc disruptions at T1-2 and from T6 to T9. The claimant has an extensive history related to lumbar DDD, and radiculopathy and accordingly requires R/L's as follows:

Lumbago, Lumbar radiculopathy:

Sitting: Frequently up to 6 hours total per day

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities.

Climbing stairs: Occasionally

Balancing: Occasionally

Stooping: Never

Kneeling: Never

Crouching: Never

Crawling: Never

Reaching: Occasionally overhead or below waist level, unrestricted at desk with bilateral hands

Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot." (R. 330-31).

On March 10, 2020, Dr. Rojhani issued an addendum to his opinion, stating:

"For questions #4- Dr. Rojhani listed restrictions/limitations of the diagnoses of Lumbago and lumbar radiculopathy. Can he note if there would be any change in those R/Ls listed if he did not include the lumbago, and only consider that those are caused by/related to the lumbar radiculopathy and neurological abnormalities?"

Only considering the R/Ls caused by/related to the lumbar radiculopathy and neurological abnormalities the following are recommended:

Sitting: Unrestricted
Standing: 15 minutes at a time, up to 1 hour total per day
Walking: 15 minutes at a time, up to 1 hour total per day
Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Climbing Stairs: Occasionally
Balancing: Occasionally
Stooping: Never
Kneeling: Never
Crouching: Never
Crawling: Never
Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands
Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot." (R. 323).

On October 2, 2020, Dr. David Burke reviewed Appellant's claim and opined:

- 1. Please list the claimant's medically supported diagnosis as of and continuing beyond 6/1/2020:**

Lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain

- 2. Are any of the diagnosis caused or contributed to by any other following: fibromyalgia, reflex sympathetic dystrophy or myofascial pain, arthritis other than rheumatoid or psoriatic arthritis, disease or disorders of the cervical or lumbosacral and its surrounding soft tissue, or sprains or strains of the joints or muscles?**

Yes, the diagnoses are caused or contributed to by disease or disorders of the cervical or lumbosacral back and its surrounding soft tissue.

- 3. If yes to #2, and you exclude all limitations/restrictions caused by those conditions, is impairment from fulltime work activities within reasonably consistent, 40hr./week work schedule supported after 6/1/2020? Please explain why or why not, noting which conditions, if any, are causing which limitations and restrictions?**

If those conditions are excluded, there is no evidence of impairment from fulltime work activities within a reasonably consistent, 40 hr./week work scheduled supported after 6/1/20.

The claimant is a 51-year-old male who ceased work 2/13/2017 due to neck, mid and low back pain and radiculopathy. Supported diagnoses include lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. Per Dr. Highsmith on 7/31/20, the claimant reports neck, mild and low back pain His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is midthoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE: 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinal muscles; tenderness in the midline C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SR. Thus, R/Ls would be supported from these conditions; however, if excluded, there is no evidence of other impairment.

- 4. Are any of the claimant's diagnoses caused, contributed to and/or consider any Of the following as of 6/1/20 and continuing beyond? Neurologic diseases; asthma or allergy-induced reactive lung disease; demyelinating diseases, lupus, rheumatoid or psoriatic arthritis; herniated discs with neurological abnormalities documented by EMG and CT or MRI; radiculopathies documented by EMG; spondylolisthesis, grade II or higher, myelopathies and or myelitis?**

Yes, some of the claimant's diagnoses are caused, contributed to and/or considered neurologic diseases; demyelinating diseases, herniated discs with neurological abnormalities documented by EMG and CT or MRI; radiculopathies documented by EMG as of 6/1/20 and continuing beyond.

- 5. If so, any such conditions result in any type of limitations and restrictions as of 6/1/20 and continuing beyond, which would impair him from performing full-time work activities, please list those conditions and the limitations and restrictions they cause. Again, please explain the medical information/reasoning that supports your conclusions in detail.**

No. Such conditions would not result in any type of limitations and restrictions as of 6/1/20 and continuing beyond, which would impair him from performing full-time work activities. However, from 6/1/20 and continuing beyond, the impairment condition that meets the criteria in question # 4 include lumbar radiculopathy, L5-S1, axial neck pain,

axial low back pain, and axial mid back pain, which would require R/Ls. However, this would not preclude full-time work activities. The claimant is a 51-year old male who ceased work 2/13/2017 due to neck, mid and low back pain and radiculopathy. Supported diagnoses include lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. Per Dr. Highsmith on 7/31/20, the claimant reports neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally; otherwise intact; tenderness of the cervical paraspinal muscles; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SLR. Thus, R/Ls would be supported from lumbar radiculopathy, axial neck pain, axial low back pain and axial mid back pain as exams document 4/5 strength with right dorsiflexion and hip flexion, diminished sensation in the dorsal right foot distally, tenderness in the midline from C3-7 with limited ROM and tenderness in the midline from L2-S1 with limited ROM.

As of 6/1/20 and continuing beyond, with re-evaluation on or around 1/1/2021:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead – frequently
 desk level – constantly
 below waist activities - frequently

Use lower extremities for foot controls; occasionally RLE; unrestricted LLE

Fingering/handling; unrestricted BUE

Simple and firm grasping; unrestricted BUE

The claimant's abilities are sustainable on a full-time basis with provided R/Ls." (R. 278-80).

VI. STANDARD OF REVIEW

Section 1-23-380(A)(5) establishes the standard of review for appeals of PEBA's decisions under the Plan, and states as follows:

"The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."

S.C. Code Ann. Section 1-23-380(A)(5) (Supp. 2003, as amended by 2006 S.C. Acts 387, House Bill No. 3285, Ratification No. 398).

"Substantial evidence" is the standard for judicial review of agency decisions. *Hendley v. S.C. Budget & Control Bd.*, 510 S.E.2d 421 (S.C. 1999). "Substantial evidence is not a mere scintilla of evidence, but evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the agency reached." *McCraw v. Mary Black Hosp.*, 565 S.E.2d 286, 289 (S.C. 2006) (quoting *Tiller v. National Health Care Center*, 513 S.E.2d 843, 845 (S.C. 1999)). "The [Administrative Law] Court may reverse the decision if the administrative findings are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record." *Id.*

VII. ARGUMENT

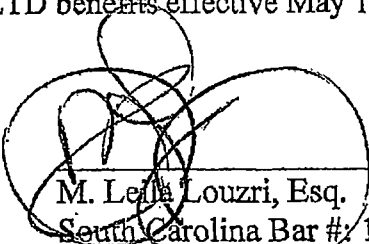
PEBA's decision to deny Appellant's benefits is clearly erroneous in view of the reliable, probative, and substantive evidence in the entire record. PEBA relied on a flawed reviewing

physician opinion that did not adequately consider Appellant's medical conditions and the symptoms that he suffers therefrom. Appellant's physicians have consistently and unequivocally opined that Appellant is completely and totally disabled due to lumbar radiculopathy, a non-limited condition. This condition and subjective symptoms cause him to be completely and totally disabled from performing any occupation from May 14, 2019 to the present and ongoing into the future.

As a result, PEBA's denial of Appellant's claim for basic long term disability benefits was "clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record." (*McCraw*, 565 S.E.2d at 289).

VIII. CONCLUSION

The record, taken as a whole, clearly demonstrates that is disabled from performing any occupation from May 14, 2019 to the present. Despite the reliable, probative, and substantial evidence included in the record, PEBA has denied his claim for basic long term disability benefits. PEBA's decision is clearly erroneous because it relied on flawed reviewing physicians' opinions in making a determination as to Appellant's eligibility for basic long term disability benefits. Consequently, Appellant respectfully requests that this Court reverse PEBA's long term disability decision and award him LTD benefits effective May 14, 2019 to the present.



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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Jerry Arnette,

Appellant,

vs.

**South Carolina Public Employee Benefit
Authority, Employee Insurance Program,**

Respondent.

Docket No.: 21-ALJ-30-0222-AP

RESPONDENT'S BRIEF

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STATEMENT OF ISSUES ON APPEAL

- I. DOES THE SUBSTANTIAL EVIDENCE IN THE RECORD ON APPEAL SUPPORT RESPONDENT SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY, EMPLOYEE INSURANCE PROGRAM'S DECISION TO CLOSE APPELLANT JERRY ARNETTE'S LONG TERM DISABILITY CLAIM?

STATEMENT OF THE CASE

This case involves an appeal by Appellant Jerry Arnette ("Arnette") of Respondent South Carolina Public Employee Benefit Authority, Employee Insurance Program's ("PEBA") decision to close his long-term disability ("LTD") claim under the State of South Carolina Long Term Disability Income Benefit Plan (the "Plan"). Specifically, pursuant to the statutory mandate of S.C. Code Ann. 1-11-710(C) (2021) and the claims procedures and discretion provided by the Plan,¹ PEBA closed Arnette's claim after he received LTD benefits for 24 months, and after PEBA determined that Arnette's medical conditions did not qualify him for additional LTD benefits under the terms and conditions of the Plan. R 2-15.²

Arnette was formerly employed by the South Carolina Department of Motor Vehicles ("SCDMV") as a Driver's License Examiner, a light strength level occupation. *Id.* at 272, 833. As an employee of SCDMV, Arnette participated in the Plan. Arnette ceased working on February 13, 2017, and filed an application for LTD benefits in which he asserted that he was unable to continue working due to degenerative disc disease. *Id.* at 272, 267.

¹ For a full discussion of PEBA's discretionary authority under the Plan and the interaction of Section 1-11-710(C) and S.C. Code Ann. §1-23-380 in appeals involving the Plan, see Section entitled Allocation of Authority to PEBA and the Appropriate Standard of Review, p. 12, *infra*.

² Citations in the form "R ____" are to specific Bates numbered pages of the Record on Appeal filed with the Court.

As discussed below, Standard Insurance Company ("Standard"), the third-party claims administrator for the Plan,³ determined that Arnette qualified for LTD benefits under the Plan from May 15, 2017 through May 14, 2019. Pursuant to Section 1-11-710(C), which provides authority to PEBA to establish claims procedures for the Plan, Arnette appealed Standard's decision to PEBA for a *de novo* review of the decision to close his claim. PEBA conducted a very thorough review of all the information contained in Arnette's claim file. See *id.* at 4-10. Based upon all of the information in Arnette's claim file and the terms of the Plan, PEBA determined that Arnette did not qualify for additional LTD benefits under the Plan. See *id.* at 10-14. PEBA informed Arnette of its decision by letter dated March 19, 2021. *Id.* at 2-15. After receiving PEBA's final decision, Arnette filed his Notice of Appeal with this Court.

STATEMENT OF FACTS

I. Applicable Plan Provisions

During the first 24 months of disability and following a 90-day Benefit Waiting Period, a claimant is entitled to LTD benefits if disabled from performing his own occupation. After the first 24 months of disability, a claimant is entitled to additional LTD benefits only if he is disabled from performing any occupation. Specifically, the Plan's Any Occupation Definition of Disability provides as follows:

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

³ PEBA has contracted with Standard to administer claims under the Plan. In its role as third-party claims administrator, Standard has no financial interest in the outcome of decisions under the Plan, and applies its experience and expertise in the area of disability claims review.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

* * *

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation. *Id.* at 22.

Even if a claimant meets the Any Occupation Definition of Disability, the Plan limits payment of benefits to 24 months during the claimant's lifetime for certain medical conditions, including musculoskeletal and connective tissue conditions, such as degenerative disc disease. Specifically, the Plan's Disabilities Subject to Limited Pay Periods provision (the "24-Month Limitation") states in relevant part as follows:

A. Limitation

No LTD Benefits are payable after you have been Disabled for 24 months during your entire lifetime (exclusive of any Benefit Waiting Periods), if your Disability is caused or contributed to by the following, or medical or surgical treatment of the following:

5. Chronic Pain, Musculoskeletal and Connective Tissue Conditions. Chronic Pain, Musculoskeletal And Connective Tissue Conditions means conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains of strains or muscles.

However, Disabilities as a result of the following conditions are not limited: . . . radiculopathies that are documented by electromyogram . . . *Id.* at 31.

Finally, a claimant seeking LTD benefits must provide adequate proof of loss demonstrating that he satisfies the applicable Definition of Disability. Specifically, the Plan contains the following provision:

Proof of Loss

Proof of Loss means written proof that you are Disabled and entitled to LTD Benefits. Proof of Loss must be provided at your expense.

For claims of Disability due to conditions other than Mental Disorders, we may require proof of physical impairment that results from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. *Id.* at 32.

Thus, to qualify for additional LTD benefits after May 14, 2019, Arnette must provide objective medical evidence that his condition prevented him from performing the material duties of Any Occupation due to a condition not subject to the 24-Month Limitation.

II. Arnette's Medical Records and Receipt of LTD Benefits

Arnette stopped working on February 13, 2017 and underwent surgery by Dr. Highsmith, a neurosurgeon, for cervical disc herniations on March 6, 2017. *Id.* at 667. Following the surgery, Arnette, who has a history of polyarthralgia (joint pain), continued to complain of joint pain. *Id.* at 493.⁴ After ceasing work and undergoing back surgery,

⁴ The Record on Appeal contains a large number of medical records for Arnette during the 2017-2020 time period. Those records relate to treatment for a variety of medical conditions; however, there does not appear to be any dispute that Arnette's sole basis for claiming ongoing disability relates to PEBA's determination, discussed in detail below, that his lumbar radiculopathy prevented him from returning to work after May 14, 2019. In fact, in its identification of the substantive facts from the Record on Appeal, Appellant's Brief focuses solely on the lumbar radiculopathy issue and states, "Appellant does continue to be completely and totally disabled due to lumbar radiculopathy, a non-limited condition under the policy." Appellant's Brief, p. 3. Accordingly, PEBA's summary of Arnette's medical records will focus on Arnette's medical records related to his back condition and lumbar radiculopathy for the time period from late 2018 through mid-2020.

Notably, Appellant's Brief identified only two contemporaneous medical records from the entire Record on Appeal in support of his appeal — a March 12, 2018 electromyogram (EMG) report which noted radicular changes in his spine; and a September 18, 2019 chart note from Dr. Highsmith, which also noted radicular changes and stated that Arnette's symptoms qualified him for disability. *Id.* at p. 4.

Arnette filed a claim for LTD benefits under the Plan, which was approved because Standard determined that Arnette's back condition and related pain prevented him from returning to work in his own occupation. Arnette received LTD benefits for the entire 24-month own occupation period of disability from May 15, 2017 through May 14, 2019.

On September 28, 2018, an MRI was performed on Arnette's lumbar spine. R 401. The MRI confirmed degenerative disc disease, but had no other significant findings. *Id.* On the same date, Arnette saw his family physician, Dr. Fitzgibbon. Arnette complained of feeling like an "old man" with generalized pain and stiffness, "but most specifically with lower back pain with radicular symptoms to the legs." *Id.* at 402.

On November 7, 2018, Arnette saw Dr. Guyer, an orthopedic surgeon, at the Texas Back Institute. *Id.* at 375. Arnette complained of lower back pain that radiated to both legs and feet. *Id.* Dr. Guyer assessed Arnette with chronic low back pain that radiated into his legs. *Id.* at 378. Dr. Guyer recommended a lumbar discography⁵ and stated Arnette may be a candidate for additional back surgery. *Id.*

Arnette saw Dr. Highsmith on March 7, 2019. Arnette reported persistent neck and mid and low back pain. *Id.* at 169. Dr. Highsmith noted that Arnette "would likely require L4-5 decompression and fusion at later day," and recommended that he continue activity as tolerated while following up with pain management to discuss treatment options. *Id.* at 171.

⁵ A lumbar discography is an imaging test of the spine to determine which disc is causing back pain. https://www.medicinenet.com/what_is_a_lumbar_discography_procedure/article.htm

Arnette returned to see Dr. Highsmith on August 16, 2019. he continued to complain of neck and back pain that radiated into his legs. *Id.* at 172. Dr. Highsmith recommended a thoracic spine MRI and ongoing pain management. *Id.* at 173.

Dr. Highsmith saw Arnette again on September 18, 2019.⁶ Arnette reported neck and back pain with his neck pain “at a tolerable level” and severe radiating mid back pain beginning at his shoulder blades. *Id.* at 174. Arnette had x-ray films that demonstrated degenerative disc disease in his lumbar spine. *Id.* Dr. Highsmith stated that Arnette had “chronic radiculopathy with neurological deficits and pain” with symptoms that “qualified him for disability.” *Id.* at 175.

Arnette returned to Dr. Highsmith approximately 10 months later on July 31, 2020. *Id.* at 286. Arnette’s pain complaints were essentially unchanged. See *id.* at 286-87.

III. Statement of Dr. Highsmith

In support of his claim for additional LTD benefits, Arnette submitted to Standard the undated “Statement of Dr. Jason Highsmith” (the “Statement”). *Id.* at 156-57. Dr. Highsmith’s Statement listed numerous subjective symptoms that Arnette allegedly suffers due to radiculopathy; listed Arnette’s prescribed medications, and summarily concluded that Arnette is disabled “as a result of his radiculopathy.” *Id.* Notably, neither Dr. Highsmith’s Statement nor his medical records identifies any specific limitations and restrictions that Arnette has as a result of his radiculopathy. There is no evidence in the Record on Appeal that any of Arnette’s treating physicians conducted any type of functional evaluation to determine what, if any, vocational limitations or restrictions

⁶ Dr. Highsmith’s September 18, 2019 chart note is the only medical record from the relevant time period cited in Appellant’s Brief.

Arnette has. Rather, the Statement and medical records simply state that Arnette is disabled.

IV. Standard's Consideration of Arnette's Claim

As noted above, Standard approved Arnette's claim for the entire 24-month own occupation period, which ended on May 14, 2019. In order to receive LTD benefits after May 14, 2019, Arnette must demonstrate that he satisfied the Plan's Any Occupation Definition of Disability due to a physical or mental condition that was not limited by the 24-Month Limitation for musculoskeletal and connective tissue conditions.

On May 16, 2019, Standard informed Arnette that his claim had been closed with payment through May 14, 2019. Standard's letter explained that because Arnette's limitations and restrictions were caused by degenerative disc disease and osteoarthritis, the 24-Month Limitation applied to his claim. *Id.* at 142. Arnette appealed Standard's decision and submitted additional information in support of his claim, including medical records, discussed above, which supported that he had lumbar radiculopathy, which is excluded from the 24-Month Limitation's coverage.

In response to Arnette's appeal, Standard referred his claim to its Administrative Review Unit ("ARU") for an independent review. After compiling all of the available medical records, the ARU requested an independent medical opinion from a board-certified physiatrist and pain and spine specialist, Dr. Rojhani,⁷ regarding the cause and extent of Arnette's limitations and restrictions.

⁷ Dr. Rojhani's *curriculum vitae* is included in the Record on Appeal at R 332-35.

As part of his review of Arnette's medical records, Dr. Rojhani contacted Dr. Highsmith's office to discuss his treatment of Arnette. *Id.* at 328. Dr. Rojhani was unable to speak with Dr. Highsmith and Dr. Highsmith did not return his call.

After reviewing all of the available medical records, Dr. Rojhani issued a report dated February 21, 2020 in which he opined as follows:

The claimant has cervical and lumbar disc disruption with chronic L5-S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue . . .

The provider documented chronic L5-S1 radicular changes. His 3/12/18 EMG reflected this and confirmed radiculopathy. The claimant also has evidence neurological abnormalities . . .

The claimant has an extensive history related to lumbar [degenerative disc disease], and radiculopathy, and accordingly requires [restrictions/limitations] as follows:

Lumbago, lumbar radiculopathy

Sitting: Frequently up to 6 hours total per day⁸

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

⁸ Dr. Rojhani subsequently issued an important addendum to his report as follows:

[Question] - Dr. Rojhani listed restrictions/limitations for the diagnoses of lumbago and lumbar radiculopathy. Can he note if there would be any changes in those R/Ls listed if he did not include lumbago, and only considered those that are caused by/related to the lumbar radiculopathy and neurological abnormalities.

[Dr. Rojhani's response] – Only considering the R/Ls caused by/related to the lumbar radiculopathy and neurological abnormalities, the following are recommended:

Sitting: Unrestricted. (Emphasis added). *Id.* at 323.

The other limitations and restrictions remained the same.

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Climbing Stairs: Occasionally
Balancing: Occasionally
Stooping: Never
Kneeling: Never
Crouching: Never
Crawling: Never
Reaching: Occasionally overhead or below waist, unrestricted at desk with bilateral hands
Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot. *Id.* at 330-31.

After reviewing all of the available information, including Dr. Rojhani's opinion and addendum, on March 31, 2020, the ARU informed Arnette's attorney as follows:

After considering all of the information contained in his file, we find the decision to limit your client's LTD claim to 24 months of benefits under the [24-Month Limitation] with regard to his Disability caused and/or contributed to by his degenerative disc disease and osteoarthritis is correct. Therefore, no additional LTD benefits are payable for either of those conditions, or any other conditions falling within the definition of Chronic Pain, Musculoskeletal and Connective Tissue Conditions, after May 14, 2019.

However, we also find Mr. Arnette has limitations and/or restrictions from working after that date due to his additional diagnosis of lumbar radiculopathy with neurological abnormalities, which is a condition specifically excluded from the [24-Month Limitation]. As such, your client's file will be returned to Life & Disability Services for additional evaluation to determine his eligibility, if any, for additional benefits after May 14, 2019, due to that non-Limited condition, under the Definition of Disability that was applicable to his claim at that time. *Id.* at 89.

Standard then conducted a further review to determine whether Arnette's lumbar radiculopathy and related symptoms prevented him from working in any occupation after May 14, 2019. As part of this further review, Standard conducted a vocational assessment to determine whether sedentary strength level jobs existed that Arnette could perform. After considering Arnette's education, training, and experience, Standard's vocational consultant identified the following sedentary strength level occupations that Arnette could

perform on a reasonably continuous basis with his limitations and restrictions: Real Estate Clerk, Customer Service Representative, and Receptionist. *Id.* at 800-09.

After considering the limitations and restrictions caused by Arnette's lumbar radiculopathy and identifying alternative sedentary strength level occupations that Arnette could perform, Standard determined that Arnette was not entitled to LTD benefits after May 14, 2019 due to lumbar radiculopathy. *See id.* at 79-81. Arnette appealed Standard's decision. Standard's ARU conducted another independent review with an analyst not previously involved in Arnette's claim.

As part of this ARU review, Standard requested another independent medical opinion from a board-certified neurologist, Dr. Burke,⁹ regarding Arnette's limitations and restrictions. Like Dr. Rojhani, Dr. Burke contacted Dr. Highsmith's office, but was unable to speak with Dr. Highsmith. *Id.* at 276. After considering all of Arnette's medical records, Dr. Burke provided the following opinion with respect to the limitations and restrictions caused by Arnette's lumbar radiculopathy:

[S]ome of the claimant's diagnoses are caused, contributed to and/or considered neurological diseases; demyelinating diseases, herniated discs with neurological abnormalities documented by EMG and CT or MRI; radiculopathies documented by EMG as of 6/1/20 and continuing beyond .

Such conditions would not result in any limitations and restrictions as of 6/2/20 and continuing beyond, which would impair him from performing full-time work activities. However, from 6/1/20 and continuing beyond, the impairing conditions that [fall outside the 24-Month Limitation] include lumbar radiculopathy, L5-S1, axial¹⁰ neck pain, axial low back pain, and axial mid back pain, which would require R/Ls. However, this would not preclude full-time work activities. The claimant is a 51-year old male who ceased work 2/13/17 due to neck, mid and low back pain and radiculopathy . . . 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar

⁹ Dr. Burke's *curriculum vitae* is included in the Record on Appeal at R 281-83.

¹⁰ Mechanical pain confined to one specific spot.

spine, multilevel NF stenosis¹¹ ranging from mild to mild/moderate. Per Dr. Highsmith on 7/31/20, the claimant reports neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall . . . R/Ls would be supported from lumbar radiculopathy, axial neck pain, axial low back pain, and axial mid back pain, as exams document 4/5 strength with right dorsiflexion and hip flexion, diminished sensation in the dorsal right foot distally, tenderness in the midline from C3-7 with limited ROM, and tenderness in the midline from L2-S1 with limited ROM.

As of 6/1/20 and continuing beyond, with re-evaluation on or around 1/1/2021:

Sitting: constantly (30 minutes at a time for up to 8 hours/day) – frequently change positions every 30 minutes with a 1-2 minute “stand and stretch” break

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead – frequently; desk level – constantly; below waist activities – frequently

Using lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted [bilateral upper extremities]

Simple and firm grasping: unrestricted (bilateral upper extremities] *Id.* at 279-80.

Based upon its review of all of the available information, the opinions of Dr. Burke and Dr. Rojhani, and the identification of alternative sedentary occupations for which Arnette qualified, the ARU upheld the decision to close Arnette’s LTD claim under the Plan’s Any Occupation Definition of Disability. The ARU determined that Arnette was not disabled from returning to work in sedentary strength level occupations after May 14,

¹¹ Compression of a spinal nerve.

2019, even when taking into consideration his limitations and restrictions caused by lumbar radiculopathy. *Id.* at 70-72. The ARU informed Arnette of its decision by letter dated October 26, 2020. *Id.* at 70-73. The ARU also informed Arnette of his right to appeal to PEBA for a final review of his claim. *Id.* at 72-73. Arnette appealed to PEBA.

V. PEBA's Consideration of Arnette's Claim

After receiving Arnette's appeal, PEBA conducted a *de novo* review of his claim to determine whether he was entitled to additional LTD benefits. PEBA's decision was very thorough and summarized in significant detail all of the information Arnette submitted, Standard's consideration and closure of Arnette's claim, and the relevant Plan provisions. See *id.* at 2-10. After considering all of the relevant information, PEBA made the following findings:

- Given that Claimant reached his lifetime 24-month limit for BLTD benefits due to the Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation on May 14, 2019, PEBA finds that he is not eligible to receive BLTD benefits after May 14, 2019 for neck and back pain, or for any other Chronic Pain, Musculoskeletal and Connective Tissue Conditions (emphasis in original). *Id.* at 11.
- Based on the opinions of Dr. Burke and Dr. Rojhani, PEBA finds that Claimant is not Disabled from performance of a sedentary level occupation due to radiculopathy or neurological abnormalities. While PEBA finds that Claimant has limitations due to radiculopathy and neurological abnormalities, Dr. Burke and Dr. Rojhani both opined that Claimant's limitations due to radiculopathy or neurological abnormalities exceed the sedentary level limitation of exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently.¹² *Id.* at 12.
- [T]he decision in this matter is whether Claimant can perform suitable

¹² PEBA's reference to sedentary work strength requirements refers to a listing of Physical Demands – Strength Ratings from the Dictionary of Occupational Titles found at R 811. As noted above, PEBA's determination that Arnette was capable of performing sedentary work on a full-time basis relied on the opinions of Dr. Burke and Dr. Rojhani who provided very detailed limitations and restrictions related to Arnette's lumbar radiculopathy. Those detailed limitations and restrictions are quoted above and are also quoted in PEBA's determination (see *id.* at 12). In sharp contrast, Arnette's primary treating physician, Dr. Highsmith, did not provide any detailed analysis or identification of Arnette's limitations and restrictions.

alternative sedentary occupations based on his functional capacity, and his education, training and experience. A Vocational Consultant identified three sedentary level alternative occupations . . . PEBA finds: 1) Claimant has the necessary education, training and experience for these occupations; 2) these occupations would pay at least 65% of Claimant's Indexed Predisability Earnings; and 3) these occupations are available at one or more locations in the national economy. *Id.* at 14.

In conclusion, PEBA determined that Arnette did not have limitations or restrictions due to lumbar radiculopathy or any other non-limited condition that prevented him from working a sedentary level occupation on a full-time basis after May 14, 2019. *Id.*

ALLOCATION OF AUTHORITY TO PEBA AND THE APPROPRIATE STANDARD OF REVIEW

The Plan provides PEBA with "full and exclusive authority to control and manage the Plan, to administer claims, and to interpret the Plan and resolve all questions arising in the administration, interpretation, and application of the Plan. Our authority includes . . . [T]he right to determine . . . [E]ntitlement to benefits." *Id.* at 34. The Plan further provides: "Any decision we make in the exercise of our authority is conclusive and binding, subject only to appellate judicial review consistent with the standards provided in Section 1-23-380, Code of Laws of South Carolina." *Id.* at 35.

Likewise, Section 1-11-710(C), the enabling legislation for the Plan, provides as follows:

Notwithstanding Sections 1-23-310 and 1-23-320 or any other provision of law, claims for benefits under any self-insured plan of insurance offered by the State to state and public school district employees and other eligible individuals must be resolved by procedures established by the [State Budget and Control Board], which shall constitute the exclusive remedy for these claims, subject only to judicial review consistent with the standards provided in Section 1-23-380.

Section 1-23-380 establishes the standard of review for appeals of PEBA's decisions as follows:

The court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. §1-23-380(A)(5) (2021).

Under Section 1-23-380, "substantial evidence" is the standard for judicial review of agency decisions. *Hendley v. S.C. State Budget & Control Bd.*, 333 S.C. 455, 510 S.E.2d 421 (1999). "Substantial evidence is not a mere scintilla of evidence, but evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the agency reached." *Tiller v. National Health Care Center*, 334 S.C. 333, 338, 513 S.E.2d 843, 845 (1999). Under the substantial evidence rule, PEBA's decision must be upheld unless it was clearly erroneous in view of the substantial evidence in the record. *See Central Transp., Inc. v. S.C. Public Service Comm'n*, 289 S.C. 267, 346 S.E.2d 25 (1986) (reversing the Circuit Court when it exceeded the scope of review and substituted its own judicial discretion for that of the Commission).

An agency's finding is supported by substantial evidence even when the record, considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence. *See Wilson v. State Budget and Control Board Employee Insurance Program*, 374 S.C. 300, 305-06, 648 S.E.2d 310, 313 (Ct. App. 2007) (holding that

although Wilson presented a favorable opinion from a treating physician and a favorable Social Security Disability determination, *i.e.*, "some evidence" to support her claim, "we must affirm an agency's decision when substantial evidence supports the decision").

ARGUMENT

Substantial Evidence Supports PEBA's Decision To Close Arnette's Claim

The evidence in the Record on Appeal overwhelmingly supports PEBA's decision to close Arnette's LTD claim. In fact, Appellant's Brief appears to acknowledge that the medical records of Arnette's treating physicians do not support his claims. Specifically, Appellant's Brief cites only two medical records out of the entire Record on Appeal for the simply proposition that Arnette has radiculopathy. See Appellant's Brief, p. 4. That fact is not in dispute. On the other hand, Appellant's Brief spends more than four pages quoting the reports of Dr. Rojhani and Dr. Burke and never takes issue with any specific conclusion or opinion in those reports. Rather, with no supporting references to the Record on Appeal, Appellant's Brief argues that PEBA's decision "is clearly erroneous" because "PEBA relied on a flawed reviewing physician opinion that did not adequately consider Appellant's medical conditions and the symptoms that he suffers therefrom." *Id.* at 10-11. Appellant's Brief does not identify any medical record, medical condition, or symptom that Dr. Rojhani, Dr. Burke, or PEBA failed to consider.

In fact, the opinions of Dr. Rojhani and Dr. Burke, which unequivocally support PEBA's decision, thoroughly analyzed and summarized the records of Arnette's treating physicians. See R 327-29, 276-78. Moreover, Dr. Rojhani and Dr. Burke each attempted to contact Dr. Highsmith to discuss his treatment of Arnette. Dr. Highsmith never responded. Dr. Rojhani's and Dr. Burke's opinions are well reasoned and based upon Arnette's contemporaneous medical records. That fact is not changed by Dr. Highsmith's

Statement, which contained no detailed analysis of Arnette's lumbar radiculopathy and related symptoms and summarily concluded that Arnette is disabled.

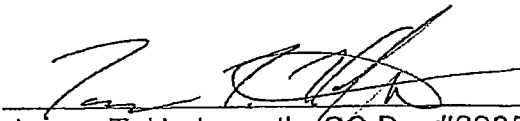
Arnette's medical records demonstrate that he has limitations and restrictions as a result of his lumbar radiculopathy. Though not in perfect agreement, Dr. Rojhani and Dr. Burke identified those limitations and restrictions, and their opinions are consistent in concluding that the limitations and restrictions do not prevent Arnette from working in numerous sedentary strength level occupations. The medical records of Arnette's treating physicians are not inconsistent with Dr. Rojhani's and Dr. Burke's opinions. PEBA was certainly entitled to rely on Arnette's medical records and the opinions of Dr. Rojhani and Dr. Burke, which collectively provide overwhelming evidence in support of PEBA's decision to close Arnette's claim. PEBA could not have abused its discretion by reaching a conclusion that is supported by such evidence. Moreover, and contrary to Arnette's meritless argument, there is no evidence in the Record on Appeal that either Dr. Rojhani or Dr. Burke did not adequately consider Arnette's medical conditions and symptoms.

CONCLUSION

Substantial evidence in the Record on Appeal supports PEBA's decision to close Arnette's claim for LTD benefits under the Plan. Accordingly, PEBA respectfully requests that the Court affirm its decision.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,



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December 6, 2021
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PEBA
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June 17, 2021

M. Leila Louzri, Esquire
Foster Law Firm LLC
25 Mills Avenue
Greenville, SC 29605

RE: State of South Carolina Basic Long Term Disability Income Benefit Plan
Subscriber: Jerry Arnette
BIN: 53859853
Issue: Closure of BLTD Claim

Dear Ms. Louzri:

Thank you for your firm's letter to the South Carolina Public Employee Benefit Authority (PEBA) appealing the decision of Standard Insurance Company (The Standard) to close the Basic Long Term Disability (BLTD) claim for your client, Mr. Jerry Arnette (Claimant). The Standard closed Claimant's BLTD claim after May 14, 2019 because Claimant was able to perform sedentary level work with back radiculopathy and neurological abnormalities; Claimant was not Disabled due to any conditions not limited by the 24-month Chronic Pain and Musculoskeletal Conditions Limitations provision of the BLTD Plan. PEBA has not been involved in any prior decisions to deny Claimant's BLTD claim. PEBA fully considered this appeal by reviewing the claim along with the relevant provisions of the State of South Carolina's employer-funded Basic Long Term Disability Income Benefit Plan (BLTD Plan). After its *de novo* review, PEBA concludes that The Standard properly closed Claimant's BLTD claim after May 14, 2019.

Claimant's appeal is limited to the closure of his claim under the BLTD Plan. The Supplemental Long Term Disability Plan (SLTD Plan), for which he individually paid premiums, is fully insured by The Standard, not PEBA. Any decisions regarding SLTD benefits are made by The Standard and not PEBA.

Introduction and BLTD Plan Provisions

The South Carolina Department of Motor Vehicles employed Claimant as a License Examiner I (CDL) beginning on or around November 1, 2014. Claimant's Own Occupation of Driver's License Examiner is a light strength occupation. Claimant's last date worked before claiming Disability was February 13, 2017.

Claimant met the Own Occupation Definition of Disability as of February 14, 2017—his date of disability—because Claimant was unable to perform his light level Own Occupation of Driver's License Examiner due to neck, mid and low back pain and radiculopathy. The BLTD Plan has a 90-day Benefit

Waiting Period; benefits are payable after the 90-day Benefit Waiting Period if a claimant has been disabled as defined under the Plan for the entire waiting period. Claimant's 90-day Benefit Waiting Period ended on May 14, 2017. Because he had been disabled from performing his Own Occupation for the entire 90-day Benefit Waiting Period, Claimant's BLTD benefits began on May 15, 2017.

Under the BLTD Plan, the Own Occupation Period occurs during the 90-day Benefit Waiting Period after the date of Disability and the first 24 months of receiving BLTD disability benefits. During the Own Occupation Period, Claimant was eligible for BLTD benefits because he could not perform his light level Own Occupation. The Own Occupation Period ended on May 14, 2019.

The BLTD Plan further provides that no BLTD Benefits are payable after a person has been disabled for 24 months during their entire lifetime (exclusive of any Benefit Waiting Periods), if the disability is caused or contributed to by Chronic Pain, Musculoskeletal and Connective Tissue Conditions.

The BLTD Plan defines Chronic Pain, Musculoskeletal and Connective Tissue Conditions as conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

For Claimant to remain eligible for BLTD benefits after May 14, 2019, he must be Disabled from performing Any Occupation due to a condition or conditions not limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation. Claimant would be disabled from Any Occupation if, as a result of a nonlimited Physical Disease, Mental Disorder or Injury, he is unable to perform with reasonable continuity the Material Duties of Any Occupation. The Any Occupation Period began on May 15, 2019 and is the standard under which this appeal is determined.

Any Occupation means any occupation or employment Claimant is able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which Claimant can be expected to earn at least 65% of his Indexed Predisability Earnings within twelve months following his return to work, regardless of whether Claimant was working in that or any other occupation.

The Standard identified alternative sedentary level occupations: 1) for which you have the necessary education, training and experience; 2) that would pay at least 65% of your Indexed Predisability Earnings; and 3) are available at one or more locations in the national economy. These alternative sedentary level occupations are appointment clerk, customer complaint clerk, and customer service representative.

Moreover, the BLTD Plan requires Claimant to establish Proof of Loss that he is Disabled from performing Any Occupation. Proof of Loss under the BLTD Plan means written proof that Claimant is Disabled and entitled to BLTD Benefits. Proof of Loss must be provided at Claimant's expense. For claims of Disability due to conditions other than Mental Disorders, Claimant must provide proof of physical impairment that results from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques

The Standard closed Claimant's BLTD claim after May 14, 2019 because he had the capacity to perform alternative sedentary occupations under the Any Occupation standard.

Claimant appealed the closure of his BLTD claim to PEBA.

Summary of Records

Claimant underwent X-rays of his lumbar spine on May 31, 2016. The X-rays revealed moderate degenerative disc disease from L3-4 through L5-S1 and facet arthritis from L1-2 through L5-S1, appearing most developed at L4-5.

On June 13, 2017, X-rays of Claimant's lumbar spine showed degenerative change that was greatest at the lumbosacral junction and showed no instability.

On July 23, 2017, a CT of Claimant's sinus showed a small mucous retention cyst in the left maxillary sinus and minimal mucosal thickening in the right maxillary sinus.

An EKG on July 24, 2017 revealed non-specific QRS changes and normal sinus rhythm.

On March 12, 2018, Claimant underwent an EMG/NCS which revealed chronic L5 and S1 radicular changes.

Claimant had a normal renal USG on May 26, 2018.

A Holter recording on July 10, 2018 indicated average BP 155/90 mmHg; maximum 163 mmHg systolic, minimum 102 mmHg systolic; maximum 108 mmHg diastolic, minimum 48 mmHg diastolic, HR average 70 bpm, maximum 96 bpm, and minimum 37 bpm.

A brain MRI on July 26, 2018 was normal. There was no abnormal echo signal and all appropriate flow voids were present.

On September 28, 2018, an X-ray of the lumbar spine showed moderate degenerative disease of the lumbar spine and multilevel NF stenosis ranging from mild to mild/moderate.

Claimant's lab results on October 31, 2018 were TPO Ab 6 and Testosterone 464 total.

Claimant saw Dr. Fitzgibbon on December 26, 2018 to discuss blood pressure medications and to discuss labs. Claimant was concerned over a recall notice of his blood pressure medicine. Exam findings included normal vitals, regular rate and rhythm, no murmur, clear lungs, and soft, nontender abdomen. Dr. Fitzgibbon listed diagnoses of hyperlipidemia, gout, chronic kidney disease, elevated BP, carotid bruit, and lumbar back pain with radiculopathy.

Claimant underwent a Carotid Doppler test on December 27, 2018, which revealed minimal plaque in the right ICA and normal velocities; mild atherosclerotic plaque in the right external carotid artery; and minimal plaque in the left internal and external carotid arteries.

Claimant returned to Dr. Fitzgibbon on December 27, 2018 to review lab work and carotid studies, which were normal. Claimant had normal vitals on exam. Medications listed included ProAir HFA, antoprazole, Cyclobenzaprine, Montelukast, Breo Eilipta, Flomax, alopurinol, and amlodipine.

Claimant visited Dr. Highsmith (Neurosurgery) on March 7, 2019. Claimant had previous arthroplasty at C5-7 and lumbar decompression at L4-5 for foot drop. Claimant presented with neck, mid and low back pain, as well as pain in the elbows bilaterally and legs bilaterally diffusely to the right ankle. On physical exam, Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited range of motion; and negative straight leg raise.

Dr. Highsmith noted on September 8, 2019, that Claimant suffered mid-back pain radiating into the paraspinal muscles; most of the pain was at the inferior portion of the scapula radiating down. His low back pain was also noted to be radiating to the right foot. Claimant's strength was intact, but he had diminished sensation in the dorsal right foot. Claimant had tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited range of motion; and negative straight leg raise test.

On November 20, 2019, Claimant saw Dr. Fukuda (Urology). Claimant presented with Chronic Kidney Disease and herniated disk with chronic lower urinary tract symptoms thought to be attributable to neurogenic bladder and mild prostatism. Claimant had both obstructive voiding symptoms with a weakened stream and large residuals. Claimant underwent video urodynamic studies on March 23, 2019 that revealed sensory urgency with a stable and compliant bladder with good capacity; however, bladder emptying with markedly impaired and hypotonic bladder (thought to be due to herniated disk). On physical exam, Claimant had normal motor and sensory function and full range of motion of the cervical, thoracic, and lumbar spine.

Claimant returned to Dr. Fukuda on January 22, 2020. Claimant was on Urecholine and Flomax and felt that he was voiding satisfactorily. On physical exam, Claimant had normal motor and sensory function and full range of motion of the cervical, thoracic, and lumbar spine.

On July 31, 2020, Claimant saw Dr. Blitch (Podiatry). Claimant presented with left foot hallux joint pain and right foot numbness in the right hallux that moved through his right foot and leg. On physical exam, Claimant had normal sensation and deep tendon reflexes in the bilateral lower extremities; good muscle strength in all prime movers of the foot/ankle; and crepitus upon range of motion. The 1st ray motion was diminished with pain.

On July 31, 2020, Dr. Highsmith reported Claimant had neck, mid, and low back pain. His neck pain and radicular arm pain had improved since undergoing cervical arthroplasty, but he continued to have neck stiffness at C4-5. Claimant's biggest complaint appeared to be mid-thoracic pain radiating to the chest wall as well as numbness, tingling, and weakness with pain in the right foot. Claimant had multiple thoracic disruptions. Claimant noted increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). On physical exam Claimant had 4/5 strength with right dorsiflexion and hip flexion; otherwise Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of motion; negative

Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited range of motion; and negative straight leg raise.

Vocational Analysis

A Vocational Consultant performed an analysis of Claimant's transferable skills to assess his employability under the Any Occupation standard. After review of the vocational and medical facts in Claimant's file, the Vocational Consultant identified the following alternative sedentary strength occupations for which Claimant was qualified and had the residual functional capacity and transferable skills to perform: appointment clerk, customer complaint clerk, and customer service representative. The Vocational Consultant determined that these occupations exist in the economy and exceed the 65% of predisability salary requirement in the BLTD Plan's definition of Any Occupation.

The U.S. Department of Labor Dictionary of Occupational Titles, Fourth Edition, revised 1991 describes the strength factors as follows:

Sedentary Work- Exerting up to 10 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull or otherwise move objects, including the human body. Sedentary work involves sitting most of the time but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

These alternative occupations are all entry level positions requiring no additional training or experience. The skills and aptitude levels fall below Claimant's stated education of a Bachelor's degree. He has demonstrated sufficient skills and aptitude levels throughout his education and work history to qualify for employment in all of these occupations.

Physician Consultants

1) Dr. Burke

Dr. Burke, a physician consultant who is Board certified in Neurology, reviewed Claimant's file. Dr. Burke stated that Claimant ceased work on February 13, 2017 due to neck, mid and low back pain and radiculopathy.

Dr. Burke noted that a March 12, 2018 EMG/NCS revealed chronic L5 and S1 radicular changes and a lumbar spine MRI on September 28, 2018 revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. According to Dr. Highsmith on July 31, 2020, Claimant reported neck, mid and low back pain. Dr. Highsmith indicated Claimant's neck pain had improved since undergoing cervical arthroplasty as well as radicular arm pain, but he had neck stiffness at C4-5. Claimant's biggest complaint was mid-thoracic pain radiating to the chest wall. Claimant had multiple thoracic disruptions. Claimant also had increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). On physical exam Claimant had 4/5 strength with right dorsiflexion and hip flexion; otherwise Claimant had 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited range of

motion; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited range of motion; and negative straight leg raise.

Dr. Burke indicated that Claimant's supported diagnoses included lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. Dr. Burke opined that these supported diagnoses are caused or contributed to by diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. Dr. Burke further opined that if those conditions are excluded, there is no evidence of impairment from fulltime work activities within a reasonably consistent, 40 hour/week work schedule after June 1, 2020.

Dr. Burke stated, however, that Claimant had diagnoses that were caused, contributed to and/or considered herniated discs with neurological abnormalities documented by EMG and CT or MRI and radiculopathies documented by EMG as of June 1, 2020. But Dr. Burke opined that Claimant had no limitations or restrictions from performing full-time work due to lumbar radiculopathy, L5-S1, axial neck pain, axial low back pain, and axial mid back pain. While Claimant had some restrictions and limitations due to these conditions, these restrictions would not preclude full-time work activities. Claimant's exams documented 4/5 strength with right dorsiflexion and hip flexion, diminished sensation in the dorsal right foot distally, tenderness in the midline from C3-7 with limited ROM, and tenderness in the midline from L2-S1 with limited ROM.

Dr. Burke opined that as of June 1, 2020 and continuing beyond, Claimant had the following limitations:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead - frequently

desk level - constantly

below waist activities - frequently

Use lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted bilateral upper extremity

Simple and firm grasping: unrestricted bilateral upper extremity

Dr. Burke therefore opined that Claimant's abilities were sustainable on a full-time basis with the above restrictions and limitations.

2) Dr. Rojhani

Dr. Rojhani, a physician consultant who is Board certified in Physical Medicine and Rehabilitation and an Interventional Pain and Spine Medicine Fellow, reviewed Claimant's file. Dr. Rojhani noted Claimant had the following supported diagnoses: axial neck pain; axial low back pain; cervical disc disruption C4-C5, status post C5-C7 anterior cervical discectomy, arthroplasty; lumbar disc disruption L3-S1, status post L5 posterior decompression; axial midback pain; and chronic L5-S1 radicular changes.

Dr. Rojhani indicated the following diagnoses were not supported by the record: multi-joint polyarthropathy and hallux rigidus. Dr. Rojhani stated there was no imaging evidence of arthritis documented (excluding cervical and lumbar spine - spondylosis). There was also no specific evaluation of Claimant's lower extremities.

Dr. Rojhani noted that Claimant had lower back, right leg and right foot pain. On examination, Dr. Highsmith noted tenderness on Claimant's cervical, thoracic and lumbar paraspinous muscles. There were palpable thoracic and lumbar paraspinous muscle spasms. Trigger points were noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. There was also moderate to severe tenderness from L3 to S1 with limited range of motion. His X-ray showed multilevel degenerative changes, most notably from L3-S1. His thoracic MRI exhibited multilevel disc disruptions at T1-2 and from T6 to T9. Claimant had an extensive history related to lumbar degenerative disc disease and radiculopathy.

Dr. Rojhani stated that Claimant had cervical and lumbar disc disruption with chronic L5-S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue" and spondylotic changes were arthritic changes of the vertebrae that constitute "arthritis". Dr. Rojhani opined that if restrictions and limitations caused by Claimant's disorders of the cervical and lumbosacral back were excluded, Claimant's impairment from full-time work activities within a reasonably consistent, 40 hour/week work schedule, was not supported after May 14, 2019.

Dr. Rojhani found, however, that Claimant had documented chronic L5-S1 radicular changes. His EMG on March 12, 2018 reflected this and confirmed radiculopathy. Claimant also had evident neurological abnormalities. Dr. Rojhani opined that only considering the restrictions and limitations caused by/related to Claimant's lumbar radiculopathy and neurological abnormalities, Claimant had the following limitations:

Sitting: Unrestricted

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Climbing stairs: Occasionally

Balancing: Occasionally

Stooping: Never

Kneeling: Never

Crouching: Never

Crawling: Never

Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands

Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

3) Dr. Lewis

Dr. Lewis, a physician consultant who is Board certified in Internal Medicine, reviewed Claimant's file. Dr. Lewis noted Claimant last worked on February 13, 2017 due to neck pain and underwent 2-level anterior cervical discectomy and fusion on March 6, 2017. Prior to then, Claimant had already undergone lumbar microdiscectomy with decompression in May 2016. Since Claimant ceased work, he had also undergone cataracts and septoplasty surgeries, and had been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint poly arthropathies and hallux rigidus.

Dr. Lewis opined that Claimant's supported conditions included:

COPD

Hypertension

Gout

Testosterone Deficiency, stable on supplement

Hyperlipidemia

Multi-joint arthropathies

Sinusitis

CKD

Cervical DDD, cervicalgia, s/p ACDF

Lumbar DDD with radiculopathy, lumbago, s/p lumbar discectomy

Cataracts

Hallux rigidus

Dr. Lewis stated that Claimant had diseases or disorders of the cervical and lumbosacral back. Claimant also had arthritis, specifically spondylosis involving both the cervical and lumbar spine. Spondylosis is the term to describe arthritic changes of the vertebrae.

Claimant had a long-standing history of hypertension, hyperlipidemia, COPD, gout, testosterone deficiency, chronic kidney disease, sinusitis. Dr. Lewis opined, however, there were no functionally impairing limitations resulting from these internal medicine conditions because Claimant had been stable and compliant with treatments. Dr. Lewis stated that Claimant's providers had not discussed recommended restrictions pertinent to these internal medicine conditions; rather, records included specific recommendations for cervical and lumbar disease history with radiculopathy.

Dr. Lewis further observed that while Claimant had COPD, he did not have a specific diagnosis of asthma. Both conditions are lung diseases, however, COPD manifests with chronic bronchitis and emphysema changes, while asthma manifests with allergy/trigger induced respiratory abnormalities. There was no such documentation in Claimant's file.

Dr. Lewis therefore opined that Claimant's internal medicine conditions did not result in limitation:

Hypertension diagnosis was supported; previously hypertension was uncontrolled, however, there was no documentation of hypertensive complications, urgency/ crisis to impact functionality. Compliance to

treatment was anticipated to result in stabilization, which was evidently established based on the normalized vitals.

COPD diagnosis was supported; but Claimant's COPD was stable, with no documentation of a current respiratory insult/difficulty, desaturation at rest or further complications.

Chronic Kidney Disease diagnosis was supported; but Claimant's Chronic Kidney Disease was not functionally impairing. There were no renal-associated complications, volume/electrolyte/metabolic abnormalities documented.

Testosterone Deficiency diagnosis was supported; but Claimant's Testosterone Deficiency was stable with a supplement as Claimant maintained physiological levels.

Hyperlipidemia diagnosis was supported; but hyperlipidemia was not functionally impairing. There was no documentation of specific lipid associated complications.

Multi-joint arthropathies were supported: Claimant likely had generalized arthritis; there was no internal medicine associated condition that explained Claimant's symptoms.

Sinusitis diagnosis was supported; but sinusitis was not functionally impairing. Claimant had no active infection or complications to impact functionality.

PEBA's Determination

For Claimant to remain eligible for BLTD benefits after May 14, 2019, he must be Disabled from performing Any Occupation due to a condition or conditions not limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation. Claimant would be disabled from Any Occupation if, as a result of a nonlimited Physical Disease, Mental Disorder or Injury, he is unable to perform with reasonable continuity the Material Duties of Any Occupation. The Any Occupation Period began on May 15, 2019 and is the standard under which this appeal is determined.

Based on PEBA's review of the information in Claimant's file, along with the persuasive opinions of Dr. Burke, Dr. Rojhani, and Dr. Lewis, PEBA finds that after May 14, 2019, Claimant does not have limitations and restrictions that would preclude performance of the Material Duties of sedentary alternative occupations under the Any Occupation standard due to any condition not limited by the 24-month Chronic Pain and Musculoskeletal and Connective Tissue Condition Limitation.

1) Chronic Pain and Musculoskeletal and Connective Tissue Condition Limitation.

The BLTD Plan defines Chronic Pain, Musculoskeletal and Connective Tissue Conditions as conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

PEBA finds that Claimant's back pain conditions fall within the ambit of the definition of Chronic Pain, Musculoskeletal and Connective Tissue Conditions under the BLTD Plan and are limited to 24 months of

benefits. Dr. Burke opined that lumbar radiculopathy, axial neck pain, axial low back pain, axial mid back pain are caused or contributed to by diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. Likewise, Dr. Rohjani stated that Claimant had cervical and lumbar disc disruption with chronic L5- S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue". Thus, Dr. Burke and Dr. Rohjani found that all these enumerated conditions would constitute diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue. PEBA agrees.

Given that Claimant reached his lifetime 24-month limit for BLTD benefits due to the Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitation on May 14, 2019, PEBA finds that he is not eligible to receive BLTD benefits after May 14, 2019 for neck and back pain, or for any other Chronic Pain, Musculoskeletal and Connective Tissue Conditions. Under the BLTD Plan, each Limited Chronic Pain, Musculoskeletal and Connective Tissue Condition does not have a separate lifetime 24-month maximum pay period. There is one lifetime 24-month limitation period for all conditions that are Chronic Pain, Musculoskeletal and Connective Tissue Conditions. Once BLTD benefits have been paid to a member for 24 months because of a Disability that has been caused or contributed to by any Chronic Pain, Musculoskeletal And Connective Tissue Condition, then BLTD benefits cannot continue to be paid to that member in the future based on that or any other such conditions. This is the case even if a new Chronic Pain, Musculoskeletal and Connective Tissue Condition begins and/or is diagnosed on a different date than the initially impairing medical conditions, and even if the member continues to be impaired from work due to any such conditions after the end of the 24-month Limited Pay Period. Thus, no BLTD benefits are payable to Claimant after May 14, 2019 with respect to any Chronic Pain, Musculoskeletal and Connective Tissue Condition he has, regardless of when such condition was diagnosed, or whether he continues to be impaired as a result of such condition.

2) Nonlimited Conditions

Dr. Burke and Dr. Rohjani both opined that if Claimant's Chronic Pain and Musculoskeletal and Connective Tissue conditions are excluded from consideration, Claimant would not be precluded from performing full-time sedentary work due to any nonlimited conditions. PEBA agrees.

a) Radiculopathy and Neurological Abnormalities

The BLTD Plan provides that Disabilities as a result of the following conditions are not limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Condition Limitation: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or psoriatic arthritis, herniated discs with neurological abnormalities that are documented by electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, diskitis, or Pagett disease.

Dr. Burke found that Claimant had diagnoses that were caused, contributed to and/or considered herniated discs with neurological abnormalities documented by EMG and CT or MRI and radiculopathies documented by EMG as of June 1, 2020. Similarly, Dr. Rohjani determined that Claimant had documented chronic L5-S1 radicular changes. His EMG on March 12, 2018 reflected this and confirmed radiculopathy. Claimant also had evident neurological abnormalities. Thus, PEBA finds that any Disability

resulting from radiculopathy or neurological abnormalities would not be limited by the 24-month Chronic Pain, Musculoskeletal and Connective Tissue Condition Limitation.

Based on the opinions of Dr. Burke and Dr. Rohjani, PEBA finds that Claimant is not Disabled from performance of a sedentary level occupation due to radiculopathy or neurological abnormalities. While PEBA finds that Claimant has limitations due to radiculopathy and neurological abnormalities, Dr. Burke and Dr. Rohjani both opined that Claimant's limitations due to radiculopathy or neurological abnormalities exceed the sedentary level limitation of exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently.

Dr. Burke opined that Claimant had no limitations or restrictions from performing full-time work due to lumbar radiculopathy, L5-S1, axial neck pain, axial low back pain, and axial mid back pain. Dr. Burke opined that as of June 1, 2020 and continuing beyond, Claimant had the following limitations:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead - frequently

desk level - constantly

below waist activities - frequently

Use lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted bilateral upper extremity

Simple and firm grasping: unrestricted bilateral upper extremity

Dr. Burke therefore opined that Claimant's abilities were sustainable on a full-time basis with the above restrictions and limitations. PEBA agrees and observes, as noted above, that the limitations set out by Dr. Burke indicate Claimant has exertional capabilities beyond the exertional limits for a sedentary level occupation.

Moreover, Dr. Rohjani opined that only considering the restrictions and limitations caused by/related to Claimant's lumbar radiculopathy and neurological abnormalities, Claimant had the following limitations:

Sitting: Unrestricted

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Climbing stairs: Occasionally
Balancing: Occasionally
Stooping: Never
Kneeling: Never
Crouching: Never
Crawling: Never
Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands
Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

Again, PEBA notes that the limitations recommended by Dr. Rohjani indicate Claimant has exertional capacities that exceed the exertional requirements for sedentary-level work under the Any Occupation standard.

PEBA further finds that Claimant failed to provide Proof of Loss that he is Disabled from performing a sedentary level occupation due to radiculopathy or neurological abnormalities; Claimant failed to provide proof of physical impairment that would preclude the performance of sedentary work regarding radiculopathy or neurological abnormalities that resulted from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

b) Other Internal Medicine Conditions

Regarding Claimant's internal medicine conditions other than his back pain and back conditions, Dr. Lewis found Claimant had a long-standing history of hypertension, hyperlipidemia, COPD, gout, testosterone deficiency, chronic kidney disease, and sinusitis. Dr. Lewis opined, however, that Claimant had no functionally impairing limitations resulting from these internal medicine conditions because Claimant had been stable and compliant with treatments. PEBA agrees.

PEBA finds that Claimant has failed to provide Proof of Loss that he has physical impairment due to the above-enumerated internal medicine conditions; Claimant failed to provide proof of physical impairment regarding these internal medicine conditions that resulted from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Dr. Lewis noted Claimant had no documentation of complications due to hypertension that would impact functionality. Dr. Lewis found that Claimant's COPD was stable, with no documentation of a current respiratory difficulty, desaturation at rest or further complications. Dr. Lewis opined Claimant's Chronic Kidney Disease was not functionally impairing because there were no renal-associated complications, volume/electrolyte/metabolic abnormalities documented. Likewise, Dr. Lewis determined that Claimant's Testosterone Deficiency was stable with a supplement. Dr. Lewis concluded that Claimant was not functionally impaired due to hyperlipidemia; there was no documentation of specific lipid associated complications. Claimant had multi-joint arthropathies, but Dr. Lewis did not identify any functional limitations due to this condition. Finally, Dr. Lewis indicated that Claimant was not functionally impaired due to sinusitis; Claimant had no active infection or complications to impact functionality.

Moreover, Dr. Lewis stated that Claimant's providers had not discussed recommended restrictions pertinent to these internal medicine conditions; rather, records included only specific recommendations for cervical and lumbar disease history with radiculopathy.

Therefore, PEBA finds that Claimant is not Disabled from performing a sedentary level occupation regarding any of the internal medicine conditions identified by Dr. Lewis.

3) Conclusion

While PEBA acknowledges that Claimant has been determined to be eligible to receive Social Security Disability benefits, PEBA notes that this determination was based on a different standard and is not binding regarding his BLTD benefits. In making its disability determination, the Social Security Administration considered Claimant's age and ability to perform "past relevant work". By contrast, the decision in this matter is whether Claimant can perform suitable alternative sedentary occupations based on his functional capacity, and his education, training and experience. A Vocational Consultant identified three sedentary level alternative occupations: appointment clerk, customer complaint clerk, and customer service representative. PEBA finds: 1) Claimant has the necessary education, training and experience for these occupations; 2) these occupations would pay at least 65% of Claimant's Indexed Predisability Earnings; and 3) these occupations are available at one or more locations in the national economy.

Therefore, PEBA finds that the medical records do not support that Claimant has limitations or restrictions due to any nonlimited conditions, including radiculopathy, neurological abnormalities or other enumerated internal medicine conditions, that would have impaired his ability to perform Any Occupation on a full-time basis after May 14, 2019. PEBA finds that Claimant is not Disabled from radiculopathy, neurological abnormalities or other enumerated internal medicine conditions, whether each condition is considered individually, or in combination with one or more other conditions. Accordingly, PEBA concludes that Claimant's BLTD claim was properly closed after May 14, 2019.

This determination has been made in good faith under the terms and conditions of the Plan. Nothing in the decision should be construed as a waiver of any rights or defenses under the Plan or state law, whether or not specifically mentioned in the decision.

Claimant's right to appeal through PEBA has been exhausted. In accordance with instruction from the Administrative Law Court (ALC), the next level of appeal is to the ALC in its appellate jurisdiction pursuant to S.C. Code Ann. § 1-23-600(D). The contact information for the ALC is:

Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

An appeal is commenced by filing a notice of appeal with the ALC within 30 days of receipt of this letter. If you need any further information regarding your appeal, please contact the ALC at 803.734.0550. If you choose to appeal to the ALC, please note the following address for serving PEBA:

Legal Counsel - PEBA
202 Arbor Lake Dr.
Columbia, South Carolina 29223

PEBA appreciates your patience in this matter. If further assistance is required of this office, please contact the Insurance Appeals Division at IAD@peba.sc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. Van Camp". The signature is fluid and cursive, with the first name "Stephen" and last name "Van Camp" clearly distinguishable.

Stephen R. Van Camp
General Counsel, PEBA

SRV

cc: Nicole Smushko, Standard Insurance Company
Robin Judisky, Standard Insurance Company

State of South Carolina
202 Arbor Lake Drive
Columbia, South Carolina 29223

CERTIFICATE:
AMENDED AND RESTATED
BASIC LONG TERM DISABILITY INCOME BENEFIT PLAN

Plan Sponsor has established a long term disability income benefit plan. Plan Administrator is solely responsible for payment of LTD Benefits payable under the terms of the Plan.

Plan Administrator has retained Standard Insurance Company as claims administrator for the Plan. Standard shall receive, process, investigate and evaluate claims for benefits and shall recommend to Plan Administrator approval or denial of each claim. Standard shall also investigate and process appeals of denied claims and recommend to Plan Administrator approval or denial of each appeal. In each case Plan Administrator retains the right of final review and decision on all claims and appeals.

Standard has no authority or obligation with respect to management or investment of the assets of the Plan.

You will be covered as provided by the terms of the Plan. Possession of this Certificate does not necessarily mean you are covered. You are covered only if you meet the requirements set out in this Certificate.

Plan Administrator has the right at anytime to amend or terminate the Plan or to require or change the amount of Member contributions. If your coverage is changed by an amendment to the Plan, Plan Administrator will provide you with a revised Certificate or other notice. No agent has authority to change the Plan or to waive any of its provisions.

"You" and "your" mean the Member. "We", "us" and "our" mean Plan Administrator. Other defined terms appear with the initial letter capitalized. Section headings, and references to them, appear in boldface type.

PC190-LTD/ASO

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COVERAGE FEATURES

This section contains many of the features of your long term disability (LTD) coverage. Other provisions, including exclusions, limitations, and Deductible Income, appear in other sections. Please refer to the text of each section for full details. The Table of Contents and the Index of Defined Terms help locate sections and definitions.

GENERAL PLAN INFORMATION

Plan Sponsor:	State of South Carolina
Plan Administrator:	South Carolina Public Employee Benefit Authority
Employer(s):	State of South Carolina, school districts and local entities
Claims Administrator:	Standard Insurance Company
ASO Number:	627284-B
Plan Document Effective Date:	September 1, 2000

BECOMING COVERED

To become covered you must: (a) Be a Member; (b) Complete your Eligibility Waiting Period; and (c) Meet the requirements in **Active Work Provisions** and **When Your Coverage Becomes Effective**.

Definition Of Member: You are a Member if you are enrolled in a Health Plan offered as part of the State Insurance Program and you are one of the following:

1. A person employed by an Employer on a full-time basis, and who receives compensation from a department, agency, board, commission or institution of the State, including clerical and administrative employees of the General Assembly, and judges in the State courts;
2. An employee that the General Assembly has made eligible for coverage by law, including employees of a public school district, county, municipality, or other State-Covered Entity that has qualified for, and is participating in, coverage under the Program;
3. A member of the South Carolina General Assembly or an elected member of a council of a participating county or municipality, whose council members are eligible to participate in the South Carolina Retirement Systems;
4. An active permanent full-time employee who is employed by an Employer participating in the State Insurance Program and that has elected, upon notification and acceptance by the South Carolina Public Employee Benefit Authority, the definition of full-time to mean working at least 20 hours per week on an annual basis; or
5. A member of the X22 Employer Group, regardless of whether the member's county participates in the State Insurance Program.

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You are not a Member if you are:

1. A full-time member of the armed forces of any country;
2. A part-time teacher; or
3. A person employed by an Employer that elects to obtain other health insurance coverage for its persons employed on a nonpermanent, full-time basis.

The minimum hourly work requirement does not apply while a Member is on a furlough, provided the furlough is for 30 days or less.

Eligibility Waiting Period:

You are eligible on the Plan Document Effective Date if you are a Member on that date.

You are eligible on the first day as a Member, if you become a Member after the Plan Document Effective Date.

SCHEDULE OF COVERAGE

LTD Benefit:

The lesser of:

1. 62.5% of the first \$1,280 of your Predisability Earnings; or
2. 62.5% of your Predisability Earnings, reduced by Deductible Income.

Maximum:

\$800

Benefit Waiting Period:

90 days

Maximum Benefit Period:

Determined by your age when Disability begins, as follows:

Age	Maximum Benefit Period
61 or younger	To age 65, or 3 years 6 months, if longer
62.....	3 years 6 months
63.....	3 years
64.....	2 years 6 months
65.....	2 years
66.....	1 year 9 months
67.....	1 year 6 months
68.....	1 year 3 months
69 or older	1 year

DISABILITY PROVISIONS

Own Occupation Period:

The Benefit Waiting Period and the first 24 months of Disability.

Any Occupation Period:

From the end of the Own Occupation Period to the end of the Maximum Benefit Period.

Partial Disability:

Covered

Own Occupation Income Level:

80% of your Indexed Predisability Earnings

Any Occupation Income Level:

65% of your Indexed Predisability Earnings

See **Definition of Disability** for more information.

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EXCLUSIONS AND LIMITATIONS

Preexisting Condition exclusion:	Yes
Preexisting Condition Period:	The 6 month period prior to the most recent effective date of your coverage under the Employer's self-funded long term disability coverage plan.
Exclusion Period:	12 months while covered under the Plan
Treatment-Free Period:	At least 12 consecutive months during the period that begins at the start of the Preexisting Condition Period and ends on the date you become Disabled.

See **Exclusions and Limitations** for this and other exclusions and limitations.

DEDUCTIBLE INCOME

Social Security Offset:	Primary Offset
Salary Continuation Offset:	Sick Pay or other salary continuation paid or payable to you by your Employer, but not including vacation pay.

See **Deductible Income** for this and other Deductible Income.

OTHER BENEFITS

Leave of Absence Period:	30 days or less
Continuity of Coverage:	Yes
Reasonable Accommodation Expense Benefit:	The expenses incurred for the reasonable accommodation or \$1,000, whichever is less.
Predisability Earnings based on:	Earnings in effect on the January 1 preceding your last full day of Active Work*, or on the date you become a Member if you were not a Member on the preceding January 1.

However, if you transfer from one Employer to another, until the January 1 next following the date of transfer, your Predisability Earnings will be based on your earnings in effect on the date of transfer, thereafter, the January 1 preceding your last full day of Active Work.

*For purposes of determining your Predisability Earnings under the Group Policy, earnings are not impacted by a reduction in work hours due to furlough.

MEMBER CONTRIBUTIONS

Coverage is:	Noncontributory

STATEMENT OF COVERAGE

If you become Disabled while covered under the Plan, we will pay LTD Benefits according to the terms of the Plan after we receive satisfactory Proof Of Loss. However, our obligation to pay LTD Benefits is subject to appropriation of funds by the Legislature.

AS.IG.01X

DEFINITION OF DISABILITY

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

A. Own Occupation Definition Of Disability

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled only from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of your Own Occupation.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as your regular and ordinary employment with the Employer. Your Own Occupation is not limited to your job with your Employer.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license, or because you suffer a loss of Predisability Earnings as a result of disclosure of any Physical Disease, Injury, Pregnancy or Mental Disorder.

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

C. Partial Disability Definition

1. During the Benefit Waiting Period and the Own Occupation Period, you are Partially Disabled when you work in your Own Occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Own Occupation Income Level.
2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Any Occupation Income Level in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

R 22

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See **Return To Work Incentive** and **Deductible Income**.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the **Coverage Features**.

LT.DD.01

RETURN TO WORK PROVISIONS

A. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period no LTD Benefits will be payable for any period when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

B. Return To Work Incentive

You may serve your Benefit Waiting Period while working if you meet either the Own Occupation Definition Of Disability or the Partial Disability Definition.

You are eligible for the Return To Work Incentive on the first day you work after the Benefit Waiting Period if LTD Benefits are payable on that date. The Return To Work Incentive changes 12 months after that date, as follows:

1. During the first 12 months, your Work Earnings will be Deductible Income as determined below:
 - a. Determine 62.5% of your Predisability Earnings, and add your Work Earnings to that amount.
 - b. Determine 100% of your Indexed Predisability Earnings.
 - c. If a. is greater than b., the difference will be Deductible Income.
2. After those first 12 months, one half of your Work Earnings will be Deductible Income.

C. Work Earnings Definition

Work Earnings means your gross monthly earnings from work you perform while Disabled, plus the earnings you could receive if you worked as much as you are able to, considering your Disability, in work that is reasonably available:

- a. In your Own Occupation during the Own Occupation Period; and
- b. In Any Occupation during the Any Occupation Period.

Work Earnings includes earnings from your Employer, any other employer, or self-employment, and any sick pay, vacation pay, annual or personal leave pay or other salary continuation earned or accrued while working.

Earnings from work you perform will be included in Work Earnings when you have the right to receive them. If you are paid in a lump sum or on a basis other than monthly, we will prorate your Work Earnings over the period of time to which they apply. If no period of time is stated, we will use a reasonable one.

In determining your Work Earnings we:

1. Will use the financial accounting method you use for income tax purposes, if you use that method on a consistent basis.

2. Will not be limited to the taxable income you report to the Internal Revenue Service.
3. May ignore expenses under section 179 of the IRC as a deduction from your gross earnings.
4. May ignore depreciation as a deduction from your gross earnings.
5. May adjust the financial information you give us in order to clearly reflect your Work Earnings.

If we determine that your earnings vary substantially from month to month, we may determine your Work Earnings by averaging your earnings over the most recent three-month period. During the Own Occupation Period you will no longer be Disabled when your average Work Earnings over the last three months exceed 80% of your Indexed Predisability Earnings. During the Any Occupation Period you will no longer be Disabled when your average Work Earnings over the last three months exceed 65% of your Indexed Predisability Earnings.

LT2.RW.01

REASONABLE ACCOMMODATION EXPENSE BENEFIT

If you are Disabled and return to work in any occupation for any employer, not including self employment, as a result of a reasonable accommodation made by such employer, we will pay that employer a Reasonable Accommodation Expense Benefit as shown in the **Coverage Features**.

The Reasonable Accommodation Expense Benefit is payable only if the reasonable accommodation is approved by us in writing prior to its implementation.

LT.RA.01

TEMPORARY RECOVERY

You may temporarily recover from your Disability, and then become Disabled again from the same cause or causes, without having to serve a new Benefit Waiting Period. Temporary Recovery means you cease to be Disabled for no longer than the applicable Allowable Period.

A. Allowable Periods

1. During the Benefit Waiting Period: a total of 30 days of recovery.
2. During the Maximum Benefit Period: 180 days for each period of recovery.

B. Effect Of Temporary Recovery

If your Temporary Recovery does not exceed the Allowable Periods, 1 through 5 below will apply.

1. The Predisability Earnings used to determine your LTD Benefit will not change.
2. The period of Temporary Recovery will not count toward your Benefit Waiting Period, your Maximum Benefit Period or your Own Occupation Period.
3. No LTD Benefits will be payable for the period of Temporary Recovery.
4. No LTD Benefits will be payable after benefits become payable to you under any other group long term disability insurance policy under which you become insured during your period of Temporary Recovery.
5. Except as stated above, the provisions of the Group Policy will be applied as if there had been no interruption of your Disability.

LT.TR.08

WHEN LTD BENEFITS END

Your LTD Benefits end automatically on the earliest of 1 through 4 below.

1. The date you are no longer Disabled.
2. The date your Maximum Benefit Period ends.
3. The date you die.
4. The date benefits become payable under any other group long term disability insurance policy under which you become insured during a period of Temporary Recovery.

LT.BE.01

PREDISABILITY EARNINGS

Your Predisability Earnings will be based on your earnings in effect as shown in the **Coverage Features**. Any subsequent change in your earnings will not affect your Predisability Earnings.

For members of the X22 Employer Group, Predisability Earnings means (a) your total monthly rate of earnings from your Employer if your county participates in the South Carolina Public Employee Benefit Authority, or (b) the portion of your monthly rate of earnings associated with your Aid to Subdivisions appropriation, if your county does not participate in the South Carolina Public Employee Benefit Authority.

For all other Members, Predisability Earnings means your monthly rate of earnings from your Employer.

Predisability Earnings include:

1. Contributions you make through a salary reduction agreement with your Employer to:
 - a. An Internal Revenue Code (IRC) Section 401(k), 403(b), 408(k), or 457 deferred compensation arrangement; or
 - b. An executive nonqualified deferred compensation arrangement.
2. Longevity pay.
3. Shift differential pay.
4. Amounts contributed to your fringe benefits according to a salary reduction agreement under an IRC Section 125 plan.
5. Compensation earned during regular summer sessions by university teaching staff.

Predisability Earnings does not include:

1. Bonuses.
2. Commissions
3. Overtime pay.
4. Your Employer's contributions on your behalf to any deferred compensation arrangement or pension plan.
5. Any compensation from an Employer that is not participating in the South Carolina Public Employee Benefit Authority.
6. Any other extra compensation.

If you are paid on an annual contract basis, your monthly rate of earnings is one-twelfth (1/12th) of your annual contract salary.

If you are a firefighter who is paid hourly, your monthly rate of earnings is based on your hourly pay rate multiplied by the number of hours you are regularly scheduled to work per month, but not more than 243 hours.

If you are any other Member (other than a firefighter) who is paid hourly, your monthly rate of earnings is based on your hourly pay rate multiplied by the number of hours you are regularly scheduled to work per month, but not more than 173 hours.

LT.PD.22X

DEDUCTIBLE INCOME

Subject to **Exceptions To Deductible Income**, Deductible Income means:

1. Sick pay or other salary continuation as shown in the **Coverage Features**.
2. Your Work Earnings, as described in the **Return To Work Incentive**.
3. Any amount you receive or are eligible to receive because of your disability under any workers' compensation law or similar law, including amounts for partial or total disability, whether permanent, temporary, or vocational.
4. Any amount you receive or are eligible to receive because of your disability or retirement under:
 - a. The Federal Social Security Act; primary benefits are Deductible Income, but dependents benefits are not.
 - b. The Canada Pension Plan;
 - c. The Quebec Pension Plan; or
 - d. Any similar plan, act, or law.
5. Any amount you receive or are eligible to receive because of your disability under any state disability income benefit law or similar law.
6. Any amount you receive or are eligible to receive because of your disability under any other group insurance coverage through the Employer.
7. Your Deductible Income from your Employer's retirement plan, as described in **Retirement Plan Offset**.
8. Any amount you receive or are eligible to receive from or on behalf of a third party because of your disability, whether by judgement, settlement or other method. If you notify us before filing suit or settling your claim against such third party, the amount used as Deductible Income will be reduced by a pro rata share of your costs of recovery, including reasonable attorney fees.
9. Any amount you receive by compromise, settlement, or other method as a result of a claim for any of the above, whether disputed or undisputed.

LT.DI.02X

RETIREMENT PLAN OFFSET (RPO)

A. Deductible Income

Subject to the RPO Exceptions and in accordance with the RPO Rules below, your Deductible Income from your Employer's retirement plan will be the benefit determined below which provides the largest monthly reduction in your LTD Benefit even if you elect to receive a different benefit or no benefit. If you receive two or more of these benefits, the benefits will be combined for purposes of determining your Deductible Income.

Any disability benefit or retirement benefit, including service retirement benefit you (1) receive, (2) are eligible to receive, or (3) would have been eligible to receive from the Employer's retirement plan had timely application been made.

Your Employer's retirement plan includes any retirement plan established, maintained or participated in by your Employer and to which you or your Employer make contributions, including a public employee retirement system, a state teacher retirement system or a plan arranged and maintained by a union or employee association for the benefit of its members.

B. RPO Exceptions

Deductible Income from your Employer's retirement plan does not include the amounts below:

1. That portion of any retirement plan benefit attributable to your contributions, determined as follows:
 - a. Multiply the total of your accumulated retirement plan contributions and earnings (as reported by the South Carolina Retirement System) by the applicable conversion factor from the table below.
 - b. Divide the product by 12.
 - c. The result of a. and b. will not be Deductible Income from your Employer's retirement plan.

CONVERSION FACTORS

Age at Disability	Conversion Factor
44 and under	.041
45 through 53	.048
54 through 59	.054
60 through 63	.061
64 through 66	.068
67 through 68	.075
69 through 71	.082
72 through 73	.088
74 through 75	.095
76 and above	.102

2. Any lump sum refund, withdrawal or distribution of your contributions and earnings you receive because you are not vested under the plan.

C. RPO Rules

1. You will be considered eligible to receive disability benefits from your Employer's retirement plan unless you provide satisfactory written proof that you made timely application, including any appeals we deem appropriate, for such benefits and were denied or that a timely application would have been denied had you applied.
2. If a disability benefit or retirement benefit is your Deductible Income from your Employer's retirement plan because it provides the largest reduction in your LTD Benefit, but you choose not to receive that benefit, your Deductible Income will be the disability benefit or retirement benefit you could have received.
3. If we cannot determine from your Employer's retirement plan the amount of disability benefit or retirement benefit you are or would have been eligible to receive, we will determine your Deductible Income using a lifetime monthly annuity amount, with no survivor income. The annuity will be based on total plan contributions made by you or on your behalf, including your Employer's contributions and rollover contributions, plus earnings, and on the life expectancy of a person your age on the following dates:
 - a. With respect to a disability benefit, the date you first become eligible for a disability benefit:

- b. With respect to a retirement benefit, the date you first become eligible for a retirement benefit; or
- c. The date LTD Benefits become payable, if we cannot determine the date in a. or b.

LT.RP.01X

EXCEPTIONS TO DEDUCTIBLE INCOME

Deductible Income does not include:

1. Any cost of living increase in any Deductible Income other than Work Earnings, if the increase becomes effective while you are Disabled and while you are eligible for the Deductible Income.
2. Reimbursement for hospital, medical, or surgical expense.
3. Reasonable attorneys fees incurred in connection with a claim for Deductible Income.
4. Benefits from any individual disability insurance policy.
5. Early retirement benefits under the Federal Social Security Act which are not actually received.
6. Group credit or mortgage disability insurance benefits.
7. Accelerated death benefits paid under a life insurance policy.
8. Benefits from Standard group policies 621144-A or 621144-B.
9. Benefits from a. through e. below:
 - a. Profit sharing plan.
 - b. Thrift or savings plan.
 - c. Plan under IRC Section 401(k), 408(k), or 457.
 - d. Individual Retirement Account (IRA).
 - e. Tax Sheltered Annuity (TSA) under IRC Section 403(b).

LT.ED.06X

RULES FOR DEDUCTIBLE INCOME

A. Monthly Equivalents

Each month we will determine your LTD Benefit using the Deductible Income for the same monthly period, even if you actually receive the Deductible Income in another month.

If you are paid Deductible Income in a lump sum or by a method other than monthly, we will determine your LTD Benefit using a prorated amount. We will use the period of time to which the Deductible Income applies. If no period of time is stated, we will use a reasonable one.

B. Your Duty To Pursue Deductible Income

You must pursue Deductible Income for which you may be eligible, including any appeals we deem appropriate. We may ask for written documentation of your pursuit of Deductible Income. You must provide it within 60 days after we mail you our request. Otherwise, we may reduce your LTD Benefits by the amount we estimate you would be eligible to receive upon proper pursuit of the Deductible Income.

C. Pending Deductible Income

We will not deduct pending Deductible Income until it becomes payable. You must notify us of the amount of the Deductible Income when it is approved. You must repay us for the resulting overpayment of your claim.

D. Overpayment Of Claim

We will notify you of the amount of any overpayment of your claim under the Plan or under Standard group policies 621144-A or 621144-B. You will not receive any LTD Benefits until the overpayment has been repaid in full. In the meantime, any LTD Benefits paid, including any LTD Benefits paid under the Employer's insured long term disability plan, will be applied to reduce the amount of the overpayment. We may charge you interest at the legal rate for any overpayment which is not repaid within 30 days after we first mail you notice of the amount of the overpayment.

R 29

AS.RU.01X

BENEFITS AFTER COVERAGE ENDS OR IS CHANGED

During each period of continuous Disability, we will pay LTD Benefits according to the terms of the Plan in effect on the date you become Disabled. Your right to receive LTD Benefits will not be affected by:

1. Termination of the Plan after you become Disabled; or
2. Any amendment to the Plan that is effective after you become Disabled.
3. Termination of your Employer's participation under the Plan after you become Disabled. However, your Employer will be responsible to fund LTD Benefits payable after your Employer's participation under the Plan ends.

LT.BA.03X

EFFECT OF NEW DISABILITY

If a period of Disability is extended by a new cause while LTD Benefits are payable, LTD Benefits will continue while you remain Disabled. However, 1 and 2 apply.

1. LTD Benefits will not continue beyond the end of the original Maximum Benefit Period.
2. All provisions of the Plan, including the **Exclusions** and **Limitations** sections, will apply to the new cause of Disability.

LT.ND.01X

EXCLUSIONS

A. War

You are not covered for a Disability caused or contributed to by War or any act of War. War means declared or undeclared war, whether civil or international, and any substantial armed conflict between organized forces of a military nature.

B. Intentionally Self-Inflicted Injury

You are not covered for a Disability caused or contributed to by an intentionally self-inflicted Injury, while sane or insane.

C. Preexisting Condition

1. Definition

Preexisting Condition means any injury, illness, or symptom (including secondary conditions and complications) which was medically documented as existing, or for which medical treatment, medical service, prescriptions, or other medical expense was incurred at any time during the Preexisting Condition Period shown in the **Coverage Feature**

2. Exclusion

You are not covered for a Disability caused or contributed to by a Preexisting Condition or medical or surgical treatment of a Preexisting Condition unless, on the date you become Disabled, you:

- a. Have been continuously insured under the Group Policy for the entire Exclusion Period shown in the **Coverage Features**; or
- b. Have served the entire Treatment-Free Period shown in the **Coverage Features** without having received medical treatment, medical service, prescriptions, or having incurred any other medical expense in connection with the Preexisting Condition.

LT.EX.05X

DISABILITIES SUBJECT TO LIMITED PAY PERIODS

A. Limitation

No LTD Benefits are payable after you have been Disabled for 24 months during your entire lifetime (exclusive of any Benefit Waiting Periods), if your Disability is caused or contributed to by the following, or medical or surgical treatment of the following:

1. **Mental Disorders.** However, if you are confined in a Hospital solely because of a Mental Disorder at the end of the 24 months, this limitation will not apply while you are continuously confined. Mental Disorder means any mental, emotional, behavioral, psychological, personality, cognitive, mood or stress-related abnormality, disorder, disturbance, dysfunction or syndrome, regardless of cause (including any biological or biochemical disorder or imbalance of the brain) or the presence of physical symptoms. Mental Disorder includes, but is not limited to, bipolar affective disorder, organic brain syndrome, schizophrenia, psychotic illness, manic depressive illness, depression and depressive disorders, anxiety and anxiety disorders.
2. **Substance Abuse.** Substance Abuse means use of alcohol, alcoholism, use of any drug, including hallucinogens, or drug addiction.
3. **Chronic Fatigue Conditions.** Chronic Fatigue Conditions means conditions such as chronic fatigue syndrome, chronic fatigue immunodeficiency syndrome, post viral syndrome, limbic encephalopathy, Epstein-Barr virus infection, herpesvirus type 6 infection, or myalgic encephalomyelitis.
4. **Chemical And Environmental Sensitivities.** Chemical And Environmental Sensitivities means any allergy or sensitivity to chemicals or the environment such as environmental allergies, sick building syndrome, multiple chemical sensitivity syndrome or chronic toxic encephalopathy.
5. **Chronic Pain, Musculoskeletal And Connective Tissue Conditions.** Chronic Pain, Musculoskeletal And Connective Tissue Conditions means conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

However, Disabilities as a result of the following conditions are not limited: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or psoriatic arthritis, herniated discs with neurological abnormalities that are documented by electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, discitis, Paget's disease.

B. Rules For Disabilities Subject To Limited Pay Periods

1. The 24 month limited pay period applies separately to items 1 through 5 above.
2. If you are Disabled as a result of more than one Mental Disorder, Physical Disease or Injury for which LTD Benefits are payable for a limited period of time, the limited pay periods will run concurrently for all limited conditions.
3. If you are Disabled as a result of a Mental Disorder or any Physical Disease or Injury for which payment of LTD Benefits is subject to a limited pay period, and at the same time are Disabled as a result of a Physical Disease, Injury, or Pregnancy that is not subject to such limitation, LTD Benefits will be payable first for conditions that are subject to the limitation.
4. No LTD Benefits will be payable after the end of a limited pay period, unless on that date you continue to be Disabled as a result of a limited condition for which the limited pay period has not ended or as a result of a Physical Disease, Injury, or Pregnancy for which payment of LTD Benefits is not limited, and you are otherwise eligible for LTD Benefits.

LIMITATIONS

A. Care Of A Physician

You may select the Physician of your choice. However, you must be receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty during the Benefit Waiting Period. No LTD Benefits will be paid for any period of Disability when you are not receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty. We will determine the appropriateness of the care and treatment you are receiving and of the Physician treating you according to generally accepted medical standards.

B. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period of Disability when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period, no LTD Benefits will be paid for any period of Disability when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but elect not to work.

C. Rehabilitation Program

No LTD Benefits will be paid for any period of Disability when you are not participating in good faith in a plan, program or course of medical treatment or vocational training or education approved by us unless your Disability prevents you from participating.

D. Foreign Residency

While living outside of the United States or Canada, payment of LTD Benefits is limited to 12 months for each period of continuous Disability

E. Imprisonment

No LTD Benefits will be paid for any period of Disability when you are confined for any reason in a penal or correctional institution.

LT.LM.OT.1

CLAIMS

A. Filing A Claim

Claims should be filed on our forms. If you do not receive our forms within 15 days after you ask for them, you may submit your claim in a letter to us. The letter should include the date disability began, and the cause and nature of the disability.

B. Time Limits On Filing Proof Of Loss

You must give us Proof Of Loss within 90 days after the end of the Benefit Waiting Period. If you cannot do so, you must give it to us as soon as reasonably possible, but not later than one year after that 90 day period. If Proof Of Loss is filed outside these time limits, your claim will be denied. These limits will not apply while you lack legal capacity.

C. Proof Of Loss

Proof Of Loss means written proof that you are Disabled and entitled to LTD Benefits. Proof Of Loss must be provided at your expense.

For claims of Disability due to conditions other than Mental Disorders, we may require proof of physical impairment that results from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

D. Documentation

Completed claims statements, a signed authorization for us to obtain information, and any other items we may reasonably require in support of a claim must be submitted at your expense. If the required documentation is not provided within 45 days after we mail our request, your claim may be denied.

E. Investigation Of Claim

We may investigate your claim at any time.

At our expense, we may have you examined at reasonable intervals by specialists of our choice. We may deny or suspend LTD Benefits if you fail to attend an examination or cooperate with the examiner.

F. Time Of Payment

We will pay LTD Benefits within 60 days after you satisfy Proof Of Loss.

LTD Benefits will be paid to you at the end of each month you qualify for them. LTD Benefits remaining unpaid at your death will be paid to your estate.

G. Minimum Claim Payment and Claim Settlement

If your LTD Benefit under the Plan plus the amount of your long term disability benefit under Standard group policy 621144-B, if any, is equal to \$50.00 or less, we may, at our sole discretion, settle your claim in a lump sum equal to the present value of your claim as determined by us.

If there is a subsequent reduction in the amount of your Deductible Income, you have the right to ask for a review of your settlement. When you request a review, you may send us written comments or other items to support your request.

H. Notice Of Decision On Claim

We will evaluate your claim promptly after you file it. Within 45 days after we receive your claim we will send you: (a) a written decision on your claim; or (b) a notice that we are extending the period to decide your claim for 30 days. Before the end of this extension period we will send you: (a) a written decision on your claim; or (b) a notice that we are extending the period to decide your claim for an additional 30 days.

If an extension is due to your failure to provide information necessary to decide the claim, the extended time period for deciding your claim will not begin until you provide the information or otherwise respond.

If we extend the period to decide your claim, we will notify you of the following: (a) the reasons for the extension; (b) when we expect to decide your claim; (c) an explanation of the standards on which entitlement to benefits is based; (d) the unresolved issues preventing a decision; and (e) any additional information we need to resolve those issues.

If we request additional information, you will have 45 days to provide the information. If you do not provide the requested information within 45 days, we may decide your claim based on the information we have received.

If we deny any part of your claim, you will receive a written notice of denial containing:

- a. The reasons for our decision.
- b. Reference to the parts of the Plan on which our decision is based.
- c. A description of any additional information needed to support your claim.
- d. Information concerning your right to a review of our decision.

I. Review Procedure

You must request in writing a review of a denial of all or part of your claim within six months after you receive notice of the denial from the Claims Administrator.

When you request a review, you may send the Claims Administrator written comments or other items to support your claim. You may review any non-privileged information that relates to your request for review.

The Claims Administrator will review your claim promptly after receipt of your request. The Claims Administrator will send you a notice of its decision within 60 days after receipt of your request, or within 120 days if special circumstances require an extension. The Claims Administrator will state the reasons for its decision and refer you to the relevant parts of the Plan.

After you receive the Claims Administrator's decision, you may request a final review from the South Carolina Public Employee Benefit Authority by submitting written comments or other items to support your claim within 90 days of receiving the Claims Administrator's final determination. The South Carolina Public Employee Benefit Authority's director or his designees will consider your appeal and shall issue a written decision providing reasons for the decision and citation of any applicable Plan provisions within 180 days of the receipt of any requested material. The South Carolina Public Employee Benefit Authority will contact you if special circumstances require an extension.

J. Assignment

The rights and benefits under the Plan are not assignable.

AS.CL.01X

SUBROGATION

If LTD Benefits are paid or payable to you under the Plan as the result of any act or omission of a third party, we will be subrogated to all rights of recovery you may have in respect to such act or omission. You must execute and deliver to us such instruments and papers as may be required and do whatever else is needed to secure such rights. You must avoid doing anything that would prejudice our rights of subrogation.

If you notify us before filing suit or settling your claim against such third party, the amount to which we are subrogated will be reduced by a pro rata share of your costs of recovery, including reasonable attorney fees. If suit or action is filed, we may record a notice of payments of LTD Benefits, and such notice shall constitute a lien on any judgement recovered.

If you or your legal representative fail to bring suit or action promptly against such third party, we may institute such suit or action in our name or in your name. We are entitled to retain from any judgement recovered the amount of LTD Benefits paid or to be paid to you or on your behalf, together with our costs of recovery, including attorney fees. The remainder of such recovery, if any, shall be paid to you or as the court may direct.

LT2.SG.01X

ALLOCATION OF AUTHORITY

We have full and exclusive authority to control and manage the Plan, to administer claims, and to interpret the Plan and resolve all questions arising in the administration, interpretation, and application of the Plan.

Our authority includes, but is not limited to:

1. The right to resolve all matters when a review has been requested;
2. The right to establish and enforce rules and procedures for the administration of the Plan and any claim under it;
3. The right to determine:
 - a. Eligibility for coverage;
 - b. Entitlement to benefits;
 - c. Amount of benefits payable;
 - d. Sufficiency and the amount of information we may reasonably require to determine a., b., or c., above.

Any decision we make in the exercise of our authority is conclusive and binding, subject only to appellate judicial review consistent with the standards provided in Section 1-23-380, Code of Laws of South Carolina.

AS.AL.01X

INCONTESTABILITY PROVISIONS

Any statement you make to obtain coverage is a representation and not a warranty.

No misrepresentation by you will be used to reduce or deny your claim or contest the validity of your coverage unless:

1. Your coverage would not have been approved if we had known the truth; and
2. We have given you a copy of a written instrument signed by you, which contains your misrepresentation.

After your coverage has been in effect for two years, we will not use a misrepresentation by you to reduce or deny your claim, unless it was a fraudulent misrepresentation.

AS.IN.01

CONTINUITY OF COVERAGE

A. Members Covered Under Prior Plan

If your Disability is subject to the Preexisting Condition Exclusion, LTD Benefits will be payable if:

1. You were covered under the Prior Plan on the day before the effective date of your Employer's coverage under the Plan;
2. You became covered under the Plan when your coverage under the Prior Plan ceased;
3. You were continuously covered under the Plan from the effective date of your coverage under the Plan through the date you became Disabled from the Preexisting Condition; and
4. Benefits would have been payable under the Prior Plan if it had remained in force, taking into account the preexisting condition exclusion, if any, of the Prior Plan.

Payment of your LTD Benefit will be under the terms of the Prior Plan or the Plan, whichever pays less.

B. All Other Members

If your Disability is subject to the Preexisting Condition Exclusion, we will credit the Exclusion Period with the last continuous period you were covered under a group long term disability coverage plan immediately prior to becoming a Member under the Plan and LTD Benefits will be payable if:

1. You provide satisfactory written proof that you were covered under a group long term disability coverage plan on the day before you became a Member under the Plan; and
2. You become covered under the Plan immediately upon serving the Eligibility Waiting Period and Active Work requirement; and
3. You are continuously covered under the Plan through the date you become Disabled; and
4. The time served under the prior group long term disability coverage plan added to the time served under the Plan equals or exceeds the Exclusion Period shown in **Coverage Features**.

Payment of your LTD Benefit will be under the terms of the Plan.

LT2.CG.07X

WHEN YOUR COVERAGE BECOMES EFFECTIVE

A. Noncontributory Coverage

Subject to the **Active Work Provisions**, your Noncontributory coverage becomes effective on the date you become eligible.

B. Takeover Provisions

1. If you were covered under the Prior Plan on the day before the effective date of your Employer's coverage under the Plan, your Eligibility Waiting Period is waived on the effective date of your Employer's coverage under the Plan.
2. You must submit satisfactory Medical History to become covered if you were eligible for coverage under the Prior Plan for more than 31 days but were not covered.

AS.EF.01X

ACTIVE WORK PROVISIONS

A. Active Work Requirement

You must be capable of Active Work on the day before the scheduled effective date of your coverage or your coverage will not become effective as scheduled. If you are incapable of Active Work because of Physical Disease, Injury, Pregnancy or Mental Disorder on the day before the scheduled effective date of your coverage, your coverage will not become effective until the day after you complete one full day of Active Work as an eligible Member.

Active Work and Actively At Work mean performing with reasonable continuity the Material Duties of your Own Occupation at your Employer's usual place of business.

B. Changes In Coverage

This Active Work requirement also applies to any increase in your coverage.

LT2.AW.01X

WHEN YOUR COVERAGE ENDS

Your coverage ends automatically on the earliest of:

1. The date the Plan terminates.
2. The date your employment terminates.
3. The date you cease to be a Member. However, if you cease to be a Member because you are not working the required minimum number of hours, your coverage will be continued during the following periods, unless it ends under 1 or 2 above.
 - a. While your Employer is paying you at least the same Predisability Earnings paid to you immediately before you ceased to be a Member.
 - b. During the Benefit Waiting Period and while LTD Benefits are payable.
 - c. During the first twelve months of an unpaid sabbatical approved by the Employer.
 - d. During a leave of absence if continuation of your coverage under the Plan is required by a state-mandated family or medical leave act or law.
 - e. During any other leave of absence approved by your Employer in advance and in writing and scheduled to last the Leave Of Absence Period shown in the **Coverage Features**.

LT.EN.28X

REINSTATEMENT OF COVERAGE

If your coverage ends, you may become covered again as a new Member. However, the following will apply.

1. If your coverage ends because you cease to be a Member, and if you become a Member again within 90 days, the Eligibility Waiting Period will be waived.

2. If your coverage ends because you fail to make a required Member contribution, you must provide a satisfactory Medical History to become covered again.
3. If your coverage ends because you are on federal or state mandated family or medical leave of absence, and you become a Member again immediately following the period allowed, your coverage will be reinstated pursuant to federal or state mandated family or medical leave act or law.
4. The Preexisting Conditions Exclusion will be applied as if there had been no break in coverage in the following instances:
 - a. If you become covered again within 90 days.
 - b. If required by federal or state mandated family or medical leave act or law and you become covered again immediately following the period allowed under the family or medical leave act or law.

AS.RE.01

CLERICAL ERROR AND MISSTATEMENT

A. Clerical Error

Clerical error by the Plan Sponsor, Plan Administrator, your Employer, or their respective employees or representatives will not:

1. Cause a person to become covered;
2. Invalidate coverage under the Plan otherwise validly in force; or
3. Continue coverage under the Plan otherwise validly terminated.

B. Misstatement Of Age

If a person's age has been misstated, we will make an equitable adjustment of premiums, benefits, or both. The adjustment will be based on:

1. The amount of coverage based on the correct age; and
2. The difference between the premiums paid and the premiums which would have been paid if the age had been correctly stated.

LT.GE.01X

TERMINATION OR AMENDMENT OF THE PLAN

Benefits under the Plan are limited to its terms, including any valid amendment. Your Employer and their respective employees or representatives have no right or authority to change or amend the Plan or to waive any of its terms or provisions without our signed written approval.

We may change the Plan in whole or in part when any change in law or governmental regulation affects our obligations under the Plan.

Any such change or amendment of the Plan may apply to current or future Members or to any separate classes or groups of Members.

LT.TA.01X

DEFINITIONS

Benefit Waiting Period means the period you must be continuously Disabled before LTD Benefits become payable. No LTD Benefits are payable for the Benefit Waiting Period. See **Coverage Features**.

CPI-W means the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor. If the CPI-W is discontinued or changed, we may use a comparable index. Where required, we will obtain prior state approval of the new index.

Eligibility Waiting Period means the period you must be a Member before you become eligible for coverage. See **Coverage Features**.

Hospital means a legally operated hospital providing full-time medical care and treatment under the direction of a full-time staff of licensed physicians. Rest homes, nursing homes, convalescent homes, homes for the aged, and facilities primarily affording custodial, educational, or rehabilitative care are not Hospitals.

Indexed Predisability Earnings means your Predisability Earnings adjusted by the rate of increase in the CPI-W. During your first year of Disability, your Indexed Predisability Earnings are the same as your Predisability Earnings. Thereafter, your Indexed Predisability Earnings are determined on each anniversary of your Disability by increasing the previous year's Indexed Predisability Earnings by the rate of increase in the CPI-W for the prior calendar year. The maximum adjustment in any year is 10%. Your Indexed Predisability Earnings will not decrease, even if the CPI-W decreases.

Injury means an injury to your body.

LTD Benefit means the monthly benefit payable to you under the terms of the Plan.

Maximum Benefit Period means the longest period for which LTD Benefits are payable for any one period of continuous Disability, whether from one or more causes. It begins at the end of the Benefit Waiting Period. No LTD Benefits are payable after the end of the Maximum Benefit Period, even if you are still Disabled. See **Coverage Features**.

Noncontributory means the Plan Sponsor or Employer pays the entire cost for your coverage.

Physician means a licensed medical professional, other than yourself, acting within the scope of the license.

Physical Disease means a physical disease entity or process that produces structural or functional changes in your body as diagnosed by a Physician.

Plan means the long term disability income benefit plan established by Plan Sponsor and identified by the ASO Number.

Pregnancy means your pregnancy, childbirth, or related medical conditions, including complications of pregnancy.

Prior Plan means your Employer's long term disability plan in effect on the day before the effective date of your Employer's coverage under the Plan and which is replaced by the Plan.

LT.DF.06X

From: Insurance Appeals Division
To: "Allison Calvert"
Subject: PEBA received BLTD claim file
Date: Monday, April 19, 2021 9:27:03 AM

Dear Ms. Calvert:

PEBA's Insurance Appeals Division received your firm's appeal on behalf of Jerry Arnette. PEBA received a copy of the Basic Long Term Disability (BLTD) claim file from The Standard on April 16, 2021, and we are currently reviewing it. The Basic Long Term Disability Plan allows up to 180 days to review the appeal; however, please know we are working as quickly as possible to render a final decision.

If you have questions about this appeal, please email us at IAD@peba.sc.gov.

Sincerely,

Insurance Appeals Division

202 Arbor Lake Dr., Columbia, SC 29223
www.peba.sc.gov



Serving those who serve South Carolina

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016

FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

M. Leila Louzri*
llouzri@fosterfoster.com
GREENVILLE
*Licensed in SC and NC

January 19, 2021

VIA E-MAIL (IAD@peba.sc.gov)
& U.S. MAIL

Appeals Coordinator
PEBA Insurance Benefits
202 Arbor Lake Drive
Columbia, SC 29223

RE: Jerry M. Arnette, Jr.
State of South Carolina
LTD Plan No.: 627284, 621144
Claim No.: 00FC6930, 00FF3058

RECEIVED

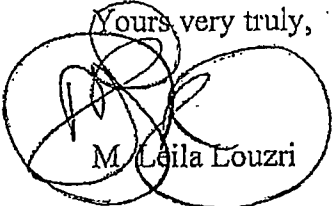
JAN 22 2021

To Whom It May Concern:

PEBA LEGAL

As you know, I represent the above in regards to his long term disability claim. Please find attached a copy of the Social Security Award letter along with the decision letter. Please let me know should you need anything further from me.

With kind regards, I remain,

Yours very truly,

M. Leila Louzri

MLL/abc
Encl.

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www.fosterfoster.com

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RECEIVED

JAN 22 2021

PEBA LEGAL

M7

Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Award

Office of Central
Operations
1500 Woodlawn Drive
Baltimore, Maryland 21241-1500
Date: July 17, 2019
BNC#: 19M1655H38771-A



0000183 000000046 3 MB 0.428 0712MOCUTR7PI T26 P6
JERRY M ARNETTE JR

You are entitled to monthly disability benefits beginning August 2017.

The Date You Became Disabled

We found that you became disabled under our rules on February 14, 2017.

To qualify for disability benefits, you must be disabled for five full calendar months in a row. The first month you are entitled to benefits is August 2017.

What We Will Pay And When

We pay Social Security benefits for a given month in the next month. For example, we pay Social Security benefits for March in April.

- You will receive \$32,078.00 around July 17, 2019.

- This is the money you are due for August 2017 through June 2019.

Your next payment of \$1,291.00, which is for July 2019, will be received on or about the fourth Wednesday of August 2019.

- After that you will receive \$1,291.00 on or about the fourth Wednesday of each month.
- These and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.
- Later in this letter, we will show you how we figured these amounts.
- The day of the month you receive your payments depends on your date of birth.

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Your Benefits

The following chart shows your benefit amount(s) before any deductions or rounding. The amount you actually receive(s) may differ from your full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

Beginning Date	Benefit Amount	Reason
August 2017	\$ 1,360.90	Entitlement began
December 2017	1,388.10	Cost-of-living adjustment
December 2018	1,426.90	Cost-of-living adjustment

Information About Medicare

Your Medicare Part A (hospital insurance) and Part B (medical insurance) start August 2019.

You will get a Medicare card within 2 weeks. You should show this card when you need medical care. To learn more about what Medicare covers, visit Medicare.gov. If you have questions about your Medicare coverage, call 1-800-MEDICARE (1-800-633-4227).

IMPORTANT: A Medicare law requires some higher income persons to pay higher premiums. The law applies to premiums for Medicare Part B (medical insurance) and prescription drug coverage. The law generally affects individuals with incomes higher than \$85,000 and couples with incomes higher than \$170,000. We will contact the Internal Revenue Service to get information about your income. If we decide that you have to pay higher premiums, we will send a letter explaining our decision. The higher amount will be effective August 2019. For more information, please visit www.socialsecurity.gov on the Internet or call us toll-free at 1-800-772-1213 (TTY 1-800-325-0778).

If you do not want medical insurance, please complete the enclosed card and return it to us in the envelope we have provided. You will need to do this by the date shown on the card. If you decide you do not want the insurance, we will return any premiums that you have paid.

Medicare Prescription Drug Plan Enrollment

Now that you are eligible for Medicare, you can enroll in a Medicare prescription drug plan (Part D).

To learn more about the Medicare prescription drug plans and when you can enroll, visit www.medicare.gov or call 1-800-MEDICARE (1-800-633-4227; TTY 1-877-486-2048). Medicare

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also can tell you about agencies in your area that can help you choose your prescription drug coverage.

If you have limited income and resources, we encourage you to apply for the extra help that is available to assist with Medicare prescription drug costs. The extra help can pay the monthly premiums, annual deductibles and prescription co-payments. To learn more or apply, please visit www.socialsecurity.gov, call 1-800-772-1213 (TTY 1-800-325-0778) or visit the nearest Social Security office.

Information About Representative's Fees

Your representative has informed us that a third-party entity is paying your representative's fee. Under our rules, we do not need to authorize your representative's when a third-party entity will pay the fee and neither you nor your auxiliary beneficiaries, if any, are liable for paying any fees and expenses. If you or any other individual is paying your representative's fees, we must first authorize that fee before your representative charges or collects it.

Any request for fee approval should be sent to:

FLORA LESTER VINSON
SSA OHO HEARING OFC
SUITE 215
101 EXECUTIVE CTR DR.
Columbia SC 29210

Other Social Security Benefits

This benefit is the only benefit you can receive from us at this time. In the future, if you think you might qualify for another benefit from us, you will need to apply again.

Your Responsibilities

We based our decision on information you gave us. If this information changes, it could affect your benefits. For this reason, it is important that you report changes to us right away.

We have enclosed a pamphlet, "What You Need To Know When You Get Social Security Disability Benefits." It tells you what you must report and how to report. Please be sure to read the parts of the pamphlet that tell you what to do if you go to work or your health improves.

A vocational rehabilitation or employment services provider may contact you to help you in going to work. The provider may be from a State agency or work under contract with Social Security.

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If you go to work, we have special rules that let us continue your cash payments and health care coverage. To learn more about how work and earnings affect disability benefits, visit our website at www.socialsecurity.gov/work/. You may also call or visit any Social Security office to ask for the following publications:

- Social Security - Working While Disabled...How We Can Help (SSA Publication No. 05-10095).
- Social Security - If You Are Blind--How We Can Help (SSA Publication No. 05-10052)..

Your Benefits May Be Taxed

You may have to pay taxes on the benefits you get from us. Part of your Social Security benefits may be taxed if:

- you are single and your total income is more than \$25,000 or
- you are married and you and your spouse have total income of more than \$32,000.

You can decide if you want to have federal taxes withheld from your benefits. If you want taxes withheld, you need to complete and return a Form W-4V, Voluntary Withholding Request. You can get Form W-4V from the Internal Revenue Service by calling 1-800-829-3676. You can also get this form at www.socialsecurity.gov/planners/taxes.htm on our website. After you complete and sign the form, return it to your local Social Security office by mail or in person.

You can find more information on paying taxes in the enclosed pamphlet, "What You Need To Know When You Get Social Security Disability Benefits".

Other Information

We are sending a copy of this notice to GARY BROWN.

Do You Disagree With The Decision?

We previously informed you of your appeal rights concerning the administrative law judge's (ALJ) decision. We also informed you of what you must do to have that decision reviewed.

If you believe that we decided any other part of your case incorrectly, you may request reconsideration on that part of your case.

If you do not agree with this decision, you have the right to appeal. We will review your case and look at any new facts you have. A person who did not make the first decision will decide your case. We may also review the parts of the decision that

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you think are right. We will make a decision that may or may not be in your favor.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you receive this letter. We assume you received this letter 5 days after the date on it unless you show us that you did not receive it within the 5-day period.
- You must have a good reason if you wait more than 60 days to ask for an appeal.
- You can file an appeal with any Social Security office. You must ask for an appeal in writing. Please use our "Request for Review of Hearing Decision/Order" form, HA-520-05. You may go to our website at www.socialsecurity.gov/online/ to find the form. You can also call, write, or visit us to request the form. If you need help to fill out the form, we can help you by phone or in person.

Things To Remember For The Future

Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. ~~Based on that review, your benefits will continue~~ if you are still disabled, but will end if you are no longer disabled.

Please tell us if your mailing address or direct deposit information changes. We need this information to deposit your payments on time and send you important letters about your payments.

Suspect Social Security Fraud?

Please visit <http://oig-ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

If You Have Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-888-385-1173. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778.

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You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
181 DOZIER BLVD
FLORENCE, SC 29501



If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Social Security Administration

Enclosure(s):

Form CMS-2690
Return Envelope
SSA Pub No 05-10153

SEE NEXT PAGE

**SOCIAL SECURITY ADMINISTRATION**

Office of Hearings Operations
Suite 215
101 Executive Ctr Dr
Columbia, SC 29210-8411

Date: June 20, 2019

Jerry Monroe Arnette Jr
555 Pearlle Rd
Dillon, SC 29536

Notice of Decision -- Fully Favorable

I carefully reviewed the facts of your case and made the enclosed fully favorable decision. Please read this notice and my decision.

Another office will process my decision. That office may ask you for more information. If you do not hear anything within 60 days of the date of this notice, please contact your local office. The contact information for your local office is at the end of this notice.

If You Disagree With My Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you or your representative must ask in writing that the Appeals Council review my decision. You may use our Request for Review form (HA-520) or write a letter. The form is available at www.socialsecurity.gov. Please put the Social Security number shown above on any appeal you file. If you need help, you may file in person at any Social Security or hearing office.

Please send your request to:

Appeals Council
5107 Leesburg Pike
Falls Church, VA 22041-3255

Time Limit To File An Appeal

You must file your written appeal within 60 days of the date you get this notice. The Appeals Council assumes you got this notice 5 days after the date of the notice unless you show you did not get it within the 5-day period.

Form HA-L76 (03-2010)

Suspect Social Security Fraud?

Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

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Jerry Monroe Arnette Jr

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The Appeals Council will dismiss a late request unless you show you had a good reason for not filing it on time.

What Else You May Send Us

You or your representative may send us a written statement about your case. You may also send us new evidence. You should send your written statement and any new evidence with your appeal. Sending your written statement and any new evidence with your appeal may help us review your case sooner.

How An Appeal Works

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. Review can make any part of my decision more or less favorable or unfavorable to you. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

The Appeals Council may:

- Deny your appeal,
- Return your case to me or another administrative law judge for a new decision,
- Issue its own decision, or
- Dismiss your case.

The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council denies your appeal, my decision will become the final decision.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not appeal. They may decide to review my decision within 60 days after the date of the decision. The Appeals Council will mail you a notice of review if they decide to review my decision.

When There Is No Appeals Council Review

If you do not appeal and the Appeals Council does not review my decision on its own, my decision will become final. A final decision can be changed only under special circumstances. You will not have the right to Federal court review.

If You Have Any Questions

We invite you to visit our website located at www.socialsecurity.gov to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

Jerry Monroe Arnette Jr

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If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is (888)385-1173. Its address is:

Social Security
181 Dozier Blvd
Florence, SC 29501-4026

Flora Lester Vinson
Administrative Law Judge

Enclosures:
Decision Rationale

cc: Gary Brown
Allsup, Inc.
300 Allsup Place
Belleville, IL 62223

**SOCIAL SECURITY ADMINISTRATION
Office of Hearings Operations**

DECISION

IN THE CASE OF

Jerry Monroe Arnette Jr
(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance
Benefits

[REDACTED]
(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated February 7, 2018 (20 CFR 404.929 *et seq.*).

The claimant appeared and testified at a hearing held on April 25, 2019, in Florence, South Carolina. Jacqueline Kennedy-Meritt, an impartial vocational expert, also appeared via telephone and testified at the hearing. The claimant is represented via telephone by Gary Brown, an attorney.

The claimant is alleging disability since February 14, 2017.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2021.
2. The claimant has not engaged in substantial gainful activity since February 14, 2017, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

While the claimant's earning records show earnings of \$2,489.00 in the second quarter of 2017, the earnings are about \$829.00 per month (10D). These earnings are less than substantial gainful activity. Additionally, the claimant testified that these earnings are from long-term disability payments and are thus not prohibitive income under our Regulations (30F). Accordingly, the undersigned finds that the claimant has not engaged in substantial gainful activity since the alleged onset date.

3. The claimant has the following severe impairments: Osteoarthritis; Degenerative disc disease of the lumbar spine with radiculopathy status post epidural spinal injection and radiofrequency ablation; History of decompression at the L4/5 level of the lumbar spine; Degenerative disc disease of the cervical spine with history of two-level arthroplasty;

Jerry Monroe Arnette Jr

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History of bilateral hallux rigidus status post corrective surgery on the left foot; and Obesity (20 CFR 404.1520(c)).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525 and 404.1526).

5. The claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) except the claimant can occasionally reach overhead with his bilateral upper extremities. The claimant is able to frequently handle and finger with his bilateral upper extremities. The claimant can occasionally climb ramps and stairs and stoop. The claimant can never kneel, crouch, crawl, or climb ladders, ropes, or scaffolds. The claimant can never work at unprotected heights or around dangerous moving mechanical parts. The claimant can have no exposure to pulmonary irritants such as concentrated amounts of dust, noxious odors, fumes, mists, gases, or poorly ventilated work space. The claimant would miss more than one day per month and/or be off task more than 10% of the time due to pain and side effects from medications.

In making this finding, the undersigned has considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSR 16-3p. The undersigned also considered the medical opinion(s) and prior administrative medical finding(s) in accordance with the requirements of 20 CFR 404.1520(c).

The claimant alleged disability due to degenerative disc disease, osteoarthritis in his spine, hand, feet, neck, and back problems (28F/1; Hearing). The claimant appeared at the hearing wearing his back brace and testified that he has been using it since 2016. He wears it when driving or when he knows he will be away from home for long periods of time (Hearing). He testified that at most he is able to sit for thirty minutes, walk for ten to fifteen, and stand for fifteen minutes before he has to change positions. Additionally, he alleged that he is unable to lift more than 51bs at a time without further exacerbating the pain in his feet and back (Hearing). He testified that he has had 3-discs replaced in his lumbar spine, 2-discs artificially replaced in his cervical spine, and has undergone corrective surgery for his left big toe. Furthermore, he stated that he is in constant pain, even when taking his medications, and that it interferes with his ability to concentrate (Hearing). Additionally, the medications cause him to have problems remembering, as he describes a type of "brain fog", they also cause dizziness, headaches, sedation, and blurred vision (Hearing). Due to the brain fog he forgets where he puts items and often forgets doctor appointments (Hearing). Additionally, due to the pain medication he is unable to drive and has trouble remembering and understanding new instructions (Hearing).

Medical records indicate that the claimant has significant degenerative changes noted L3-4, L4-5, and L5-S1 with loss of disc height, facet arthropathy and osteoarthritis noted throughout the spine (7F/4, 119; 8F/7; 31F/6, 24; 34F/2). Imaging also showed cervical disc displacement at the C5-6 level and spinal cord stenosis (7F/6; 13F/10). The claimant has tenderness and muscle spasms to palpitation for the cervical and lumbar spine (41F/2). Additionally, physicians noted numbness, joint swelling, and radiating pain into the claimant's shoulders, arms and legs (4F/32;

Jerry Monroe Annette Jr

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10F/7; 14F/4, 6; 16F/5; 18F/2; 38F/3, 12). The claimant was noted to be a good candidate for lumbar and cervical surgical decompression after having failed less invasive measures and due to his aggressive neurologic decline (7F/7, 24). The claimant underwent a microdiscectomy of his L4-5 and 2 disc replacements of his cervical spine and still has radicular pain (7F/7, 24; 13F/4; 31F/25; 40F/4). The claimant is currently taking or has tried physical therapy, massages, narcotic pain management, steroids, spinal injections, muscle relaxers, a cane and he wears a back brace (4F/32; 14F/6; 25F/5; 26F/2; 29F/15, 40; 30F/7, 22, 32; 32F/2; 38F/10, 20; 41F/2). While the claimant testified that the pain medications helps, he stated that it lowered his pain to a 6 or 7 out of 10. This relief comes with the side effects of memory problems and sedation (4F/10; 41F/2). Dr. Highsmith stated that the claimant will likely require decompression and fusion of the lumbar spine at the L4-5 level at a later date and that the claimant should continue to follow up with pain management for additional treatment modalities (41F/3). Accordingly, due to pain from the degenerative disc disease and osteoarthritis and side effects of the pain medications, the claimant is limited to sedentary work with manipulative limitations and he would miss more than one day a month and or be off task more than 10% of the time at work.

The claimant's less than sedentary residual functional capacity are also supported by the medical evidence of record, including the claimant's treatment history for bilateral hallux rigidus status post corrective surgery and obesity from a number of different sources (8F/3; 9F/9; 16F/2, 35; 30F/2; 33F/30; 35F/8). For example, records show that the claimant has repeatedly reported that he felt fatigued (4F/2, 6, 13, 21; 16F/5, 21). Additionally, consistent with his allegations, records show the claimant complained of pain in his left foot pain that was aggravated by walking (35F/8). Accordingly, due to these impairments, the undersigned finds that the claimant is limited to performing less than sedentary work, with certain additional postural, manipulative and environmental limitations.

The undersigned considered the opinion evidence. The state agency medical consultants, Mary Lang, M.D., and James Lewis M.D., opined that the claimant could perform work at the light level with postural, manipulative, and environmental limitations (1A/10-12; 4A/13-16). The undersigned finds these opinions to be unpersuasive, while they are supported by a review of the evidence, the above physicians are not examining sources. Additionally, their opinions are inconsistent with further evidence received at the hearing leveling which show significant degenerative disc disease at multiple levels of the claimant's spine (13F/4).

A medical consultant, Gurcharan Singh, M.D., a non-treating source, agreed with the above assessments and opined that the claimant is able to perform light work with postural, manipulative, and environmental limitation (26F/2). The undersigned finds this opinion to be unpersuasive, it is not supported or consistent with the longitudinal medical evidence including the opinion of the neurologist, Dr. Highsmith, imaging, and treatment history showing significant degenerative disc disease in the lumbar and cervical spine which is more analogous with less than sedentary work on a regular and continuing basis (7F/4, 119; 8F/7; 13F/10; 34F/2).

Timothy Fitzgibbon, M.D., opined that the claimant is able to complete basic activities of daily living, can relate to others, complete simple and complex tasks (19F/2). Additionally, the state agency psychological consultants, Samuel Goots, Ph.D., Annette Brooks-Warren, M.D., and Nicole Robicheau, Psy.D., opined that the claimant has no medically determinable mental

Jerry Monroe Amette Jr

Page 4 of 5

impairment (1A/8; 4A/12; 27F/1). The undersigned finds these opinions to be persuasive as they are supported by a detailed review of the record and consistent with no evidence of mental health treatment in the record.

Jason Highsmith, M.D., and Sabino Dagostino M.D., opined that the claimant will likely be unable to return to work due to leg and back pain which prevent the claimant from lifting more than 10 lbs., no overhead reaching, and no pushing or pulling (29F/2, 7, 17, 23, 25; 30F/5, 38, 40). The undersigned finds this opinion to be very persuasive, it is supported by Dr. Highsmith's examinations which note the claimant advanced degenerative disc disease. Additionally, Dr. Highsmith and Dr. Dagostino are the claimant's treating neurologists and this is their field of specialty. These opinions are also consistent with the longitudinal medical record as discussed above.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The claimant has past work as Driver's license examiner (DOT: 168.267-034), actually performed at the medium level but generally performed at the light level with a SVP of 4; Leasing Agent Resident (DOT: 250.357-014), light SVP 5 work; Janitor/Maintenance worker (DOT: 382.664-010), medium SVP 3 work; Sales agent/real estate (DOT: 250.357-018), light SVP 5 work; Sales person/automobile (DOT: 273.353-010), light SVP 6 work; and Sales person/trailers and mobile homes (DOT: 273.357-034), actually performed at the medium level but generally performed at the light level with a SVP of 5. The demands of the claimant's past relevant work exceed the residual functional capacity. Additionally, the vocational expert testified that a hypothetical person with the claimant's past work, education, and schooling would be unable to perform the above jobs with the residual functional capacity.

7. The claimant was a younger individual age 45-49 on the established disability onset date (20 CFR 404.1563).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.21. To determine the extent to which the claimant's additional limitations erode the unskilled sedentary occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience, and residual

Jerry Monroe Arnette Jr

Page 5 of 5

functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, a finding of "disabled" is appropriate under the framework of the above-cited rule.

11. The claimant has been under a disability as defined in the Social Security Act since February 14, 2017, the alleged onset date of disability (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on July 20, 2017, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since February 14, 2017.

/s/ Flora Lester Vinson

Flora Lester Vinson
Administrative Law Judge

June 20, 2019

Date

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016

FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

RECEIVED

NOV 06 2020

PEBA LEGAL

M. Leila Louzri*
llouzri@fosterfoster.com
GREENVILLE

*Licensed in SC and NC

November 4, 2020

VIA E-MAIL (IAD@peba.sc.gov)
& U.S. MAIL

Appeals Coordinator
PEBA Insurance Benefits
202 Arbor Lake Drive
Columbia, SC 29223

RE: Jerry M. Arnette, Jr.
State of South Carolina
LTD Plan No.: 627284, 621144
Claim No.: 00FC6930, 00FF3058

To Whom It May Concern:

Please be advised that I have been retained to represent the above referenced individual in connection with the appeal of your denial of his long term disability benefits. A copy of the confirmation of representation is attached hereto. **Please do not correspond or communicate directly with my client in any way and direct all correspondence or communication to my attention at the above address.** The purpose of my letter is twofold.

First, I wish to notify you that we do wish a review of the denial of Mr. Arnette's claim. Although, I am requesting that you begin your review I do not wish for you to complete the review until I am able to submit to you all of Mr. Arnette's medical records. I am in the process of obtaining his medical records and, as I am sure you can appreciate, I am at the mercy of the various physicians' offices with regard to when I will receive complete copies of the records. I have already ordered the records and I hope to receive them any day now. As soon as I receive the records I will immediately forward them to you. It is absolutely essential that these records be considered as a part of this review and, therefore, please do not conclude your review until I am able to submit to you complete copies of Mr. Arnette's relevant medical records. I will forward these to you in the near future.

The second purpose of my letter is to request a complete copy of each and every document upon which you have based your denial of Mr. Arnette's claim. Such documents include any medical documents, substantive documents, the plan document and any internal guidelines or regulations which your company has used in evaluating my client's claim.

I will be more than happy to pay any copying costs incurred and I would appreciate receiving this information from you in the near future so that Mr. Arnette will have an opportunity to respond to anything contained therein should he determine it appropriate.

I thank you for your consideration in this matter and should you need anything further from me please do not hesitate to contact me. I will provide to you as soon as is possible the additional information which I wish for you to consider.

With kind regards, I remain,

Yours very truly,

M. Leila Louzri

MLL/jcm

Encl.

cc: Mr. Jerry Arnette

**CONFIRMATION OF REPRESENTATION AND
AUTHORIZATION FOR RELEASE OF RECORDS AND REPORTS**

10/11/19

Date

I, the undersigned, have hereby retained Attorney M. Leila Louzri and the law firm of Foster Law Firm, LLC to represent me in connection with my claim for Long term Disability benefits. Additionally, I hereby authorize Standard Ins. Co. to furnish to FOSTER LAW FIRM, LLC, Attorneys at Law, 601 E. McBee Avenue, Suite 104, Greenville, South Carolina 29601, any and all information, which may be requested, from any medical provider, my insurance company or my employer regarding me. Additionally, should I be successful on appeal, I instruct

STANDARD Insurance Company to send any check for benefits on my claim for Long Term Disability benefits to M. Leila Louzri, Esq., Foster Law Firm, LLC, 601 E. McBee Avenue, Suite 104, Greenville, SC 29601.

A photostatic copy of this authorization, which contains my signature, shall be considered as effective and valid as the original and shall be honored by those to whom it is sent or provided.

X [Signature]
SSN: [Redacted]
DOB: [Redacted]

[Signature: Helen R. Arnette]
Witness

MEDICAL AUTHORIZATION FOR RELEASE OF RECORDS AND OTHER INFORMATION
IDENTIFYING INFORMATION

Patient's Name: JERRY MONROE ARNETTA JR

SSID: [REDACTED]

DOB: [REDACTED]

Thank you. Please provide the requested information and please enclose your bill for photostating with the requested records and mail to:

FOSTER LAW FIRM, LLC
601 East McBee Avenue, Suite 104
Greenville, SC 29601

STATEMENT OF INTENT AND REQUIRED STATEMENTS

This Medical Authorization is intended to direct my medical providers or other companies, persons, or entities to which 45 C.F.R. §164.508 may be applicable to provide the below specified medical documents and information to the Foster Law Firm, LLC

1. I have been advised by my attorneys that for this medical records release and authorization to be valid that it must comply with 45 C.F.R. §164.508.
2. I have been advised that I have an absolute right to revoke this authorization by doing so in writing except to the extent that my medical provider or other covered entity has already taken action in reliance thereon.
3. I have further been advised that the covered entity, i.e. my medical provider, insurer, benefit plan, or other company or person may not condition treatment, payment, enrollment, or eligibility for benefits on whether or not I sign this authorization except consistent with section b(4) below. Section b(4) states as follows:
Prohibition on conditioning of authorizations. A covered entity may not condition the provision to an individual of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except:
(i) A covered health care provider may condition the provision of research-related treatment on provision of an authorization for the use or disclosure of protected health information for such research under this section;
(ii) A health plan may condition enrollment in the health plan or eligibility for benefits on provision of an authorization requested by the health plan prior to an individual's enrollment in the health plan, if:
(A) The authorization sought is for the health plan's eligibility or enrollment determinations relating to the individual for its underwriting or risk rating determinations; and
(B) The authorization is not for a use or disclosure of psychotherapy notes under paragraph (a)(2) of this section; and
(iii) A covered entity may condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party on provision of an authorization for the disclosure of the protected health information to such third party.
4. I have further been advised that there is a potential for information disclosed pursuant to this authorization to be subject to a re-disclosure by the Foster Law Firm, LLC or other ultimate recipient and that if such happens that such re-disclosure information is no longer protected by the requirements of 45 C.F.R. 164.508.
5. I acknowledge that this authorization is written in plain language which I can understand and that I have had the opportunity to read this authorization and that I do understand it.
6. I have been advised that my medical provider or insurer, benefit plan, or other covered entity will receive a copy of the signed authorization.

AUTHORIZATION AND SCOPE

Given the above, I hereby authorize the Foster Law Firm, LLC to make a request for the following information and I hereby specifically authorize my medical providers, insurers, benefit plan, or other "covered entity" to provide the Foster Law Firm, LLC the following information which the medical provider to whom this request is directed has in its possession regarding my medical history and treatment:

1. Medical Reports of any sort	6. Complete Hospital or Facility Records
2. Emergency Room Records	7. Medical Reports and All Notes of Surgical and other treatment or care
3. X-ray, MRI Reports and other diagnostic test results	8. Laboratory Reports
4. Itemized Bill for Services to Patient with CPT & Diagnostic Codes	9. Treatment Notes
5. Psychiatric Reports and Records	10. Affidavits, Letters, Correspondence, Statements, and Medical Opinions Concerning My Treatment, Test Results, Condition, Prognosis, Restrictions, Limitations and Extent of Disability
- I also authorize my physician, medical provider, insurer, or other covered entities to discuss my history, condition, treatment, claims and bills with the Foster Law Firm, LLC

STATEMENT OF PURPOSE

I hereby advise my medical provider that the purpose for which the aforementioned information is being requested to be provided to the Foster Law Firm, LLC is to be used by the law firm to evaluate my claim and to potentially be used in the prosecution of my claim if it is decided by myself and the firm that the claim warrants prosecution. The term "claim" is defined as a claim for benefits or otherwise from any insurer or employee benefit plan or a claim against a third person or company, such as an automobile accident or other tort claim.

EXPIRATION

This authorization, unless otherwise revoked by my in writing, expires at the earliest of the time at which my "claim" is concluded with finality or one year and six months from the date I executed this agreement as set forth below.

METHOD OF REVOCATION

I understand that if I am to revoke this authorization that I may and shall do so by notifying the Foster Law Firm, LLC in writing of my desire to revoke this authorization and by instructing the Foster Law Firm, LLC to forward a photocopy of my revocation of this authorization to each medical provider to whom this authorization has previously been sent. Should I revoke this authorization I fully understand the exceptions to my right of revocation as set forth above.

I understand that I have certain rights pursuant to 45 C.F.R. §164.508 and should I desire a further explanation of those rights that I may inquire as to the Foster Law Firm, LLC of those rights. Having considered my rights pursuant to the aforementioned Federal Regulation and enacting legislation and having been apprized of my rights to the extent that I have desired, and being satisfied with those rights and the obligations of my providers, I hereby specifically direct my medical provider, insurer, benefit plan, or other covered entity to whom this authorization is addressed or presented to provide the above specified records and information at the request of the Foster Law Firm, LLC and to the Foster Law Firm, LLC

I, _____ If client/patient is signing on his or her own behalf, sign here:

Date: 10/11/19

X [Signature]
Witness
X Helen R. Arnetta

II. If client is signing on behalf of another person, please specify the person for which the authorization is being provided and please specify the document or basis from which the undersigned has authority to request medical records on behalf of the specified person and attach a copy of any such document to this release and authorization.

Date: _____

X _____
Client
X _____
Witness

Document by which the above has authority to sign:

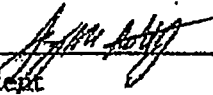
(a copy of which is attached hereto)

14. ASSIGNMENT:

By the signature below, client hereby irrevocably grants and assigns to M. Leila Louzri and the law firm of Foster Law Firm, LLC any and all rights client has to one-third (1/3rd) of any benefits or monies that may be paid to client or on client's behalf by or from any insurance company, HMO plan and employee benefit plan or other defendant(s) or entity(s) who may be a party or potential party to any lawsuit brought on my behalf by Ms. Louzri and her firm relating to this agreement.

The assignment shall supersede and be superior to any and all assignments previously executed by client to any individual or entity relating to the same benefits or monies. This assignment cannot be revoked by client after client's case has been settled, tried or at such point as monies or benefits have been procured for client or on client's behalf.

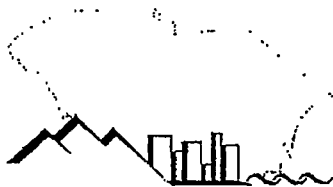
Signed this 11th day of October, 2019.



Client

Client

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016



FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

M. Leila Louzri*
llouzri@fosterfoster.com
GREENVILLE
*Licensed in SC and NC

November 4, 2020

VIA E-MAIL (LAD@peba.sc.gov)
& U.S. MAIL

Appeals Coordinator
PEBA Insurance Benefits
202 Arbor Lake Drive
Columbia, SC 29223

RE: Jerry M. Arnette, Jr.
State of South Carolina
LTD Plan No.: 627284, 621144
Claim No.: 00FC6930, 00FF3058

To Whom It May Concern:

I wish to notify you that we do wish a review of the denial of Mr. Arnette's claim. I have enclosed the signed Authorization which you requested from my client. I will not be submitting anything further on Mr. Arnette's behalf. Please begin the review of his claim. I thank you for your consideration in this matter and should you need anything further from me please do not hesitate to contact me.

With kind regards, I remain,

Yours very truly,

M. Leila Louzri

MLL/abc
Encl.

R 60

www.fosterfoster.com

0118

AUTHORIZED REPRESENTATIVE FORM

S.C. Public Employee Benefit Authority

Attention: Customer Service
202 Arbor Lake Drive
Columbia, SC 29223

PURPOSE OF THIS FORM

This form is used to authorize the South Carolina Public Employee Benefit Authority (PEBA) to share a member's confidential PEBA benefits information with a particular person who acts as the member's Authorized Representative.

REQUESTOR'S INFORMATION

Requestor's Name:

Terry Arnette

BIN:

SSN:

Address:

555 Marine Road, Dillon, SC 29530

Phone Number:

Email Address:

Insurance Policyholder's Name (if different than above):

Policyholder's BIN:

INFORMATION TO BE DISCLOSED

By signing this form I authorize PEBA to release to my Authorized Representative(s):

- A) My personal health information and other insurance information related to my participation in an insurance program administered by PEBA. Personal health information would include, but not be limited to, identification of treating providers of care, personal diagnoses and demographic information (not including psychotherapy notes). Other insurance information related to my participation in an insurance program administered by PEBA would include, but not be limited to, my insurance elections, premiums, dependents, and claim information.
- B) My confidential retirement information related to my participation in any of the retirement plans administered by PEBA. Confidential retirement information would include, but not be limited to, information in a retirement system administered by PEBA related to my enrollment, beneficiary designations, eligibility for service or disability retirement benefits, and benefit payments and other distributions.

LIMITATIONS TO DISCLOSURE

I understand that I have the right to limit the information that PEBA releases under this authorization. For example, I may limit my Authorized Representative's access to information about a particular health care provider or a particular retirement matter or transaction. Any such limitations must be set out below in writing. I understand that by leaving this section blank, I am creating no limitations on disclosure.

Limitations to Disclosure:

AUTHORIZED USE AND/OR DISCLOSURE

Intended Use or Disclosure:

I understand that PEBA's policy is not to disclose my confidential insurance and retirement information to other parties without my written authorization except where permitted or required by law. For this reason, I authorize PEBA to disclose my confidential insurance and retirement information described above to the person(s) named below, and to authorize PEBA to discuss that information with the person(s) named below, for the purpose of assisting me with my participation in the insurance and retirement plans administered by PEBA. I also understand that if my Authorized Representative(s) is not another entity subject to applicable state and federal privacy laws, my confidential benefit information may no longer be protected by those privacy laws and that my Authorized Representative may further disclose my confidential information without my authorization. I acknowledge that my authorization is voluntary.

Authorized Representative #1:

Name:

Foster Law Firm, LLC. M. Leila Louzri

Phone Number:

804-242-6200

Address:

25 Mills Avenue, Greenville, SC 29615

Email Address:

llozri@fosterfoster.com

Relationship to You:

Attorney

Authorized Representative #2:

Name:

Phone Number:

Address:

Email Address:

Relationship to You:

R 61

0119

11/12/2020 10:09
11-12-20;09:52AM;

(FAX)
864-233-0290

P.002/002
2/ 2

Form 7213
Revised 8/12/2017
Page 2

ADDITIONAL UNDERSTANDINGS ABOUT THIS FORM

I understand that this authorization does not provide my Authorized Representative with any authority to make any decisions or elections regarding my: A) PEBA retirement benefits; B) PEBA insurance benefits; C) health treatment or direct-care decisions; or D) to otherwise act on my behalf regarding my retirement or insurance benefits.

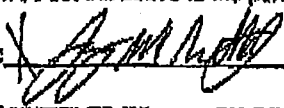
I also understand that executing this form will not alter the manner in which PEBA processes any transactions regarding my insurance or retirement benefits, benefits payments, enrollment/change forms, or my eligibility for insurance or retirement benefits.

EXPIRATION AND REVOCATION

I understand that I have the right to revoke or end this authorization at any time. To revoke this Authorization, I must send written notification of my decision to PEBA at the address below. I understand that my revocation of this Authorization will not affect any action that PEBA has taken, or any information that PEBA has already released under the Authorization before receiving my request to revoke it.

SIGNATURE/AUTHORIZATION

I have had full opportunity to read and consider the content of this Authorized Representative Form. I confirm that this authorization is consistent with my request of PEBA. I understand that by signing this form, I am authorizing PEBA to disclose my confidential benefit information as set out above to the person(s) named as Authorized Representative(s) for the purposes described above.

Signature: 

Date: 11-12-2020

YOU ARE ENTITLED TO A COPY OF THIS AUTHORIZATION FORM AFTER YOU SIGN IT.

Contact PEBA at 803.737.8800 or 868.260.9430 if you have any questions.

PLEASE MAIL THE COMPLETED AND SIGNED AUTHORIZATION FORM TO:

S.C. Public Employee Benefit Authority
Customer Service
202 Arbor Lake Drive
Columbia, SC 29223

From: Insurance Appeals Division
To: "Jenny Moore"
Subject: RE: Jerry Arnette
Date: Friday, November 6, 2020 9:58:29 AM
Attachments: Authorized Representative Form.pdf

Good Morning Ms. Moore,

PEBA's Insurance Appeals Division received your firm's appeal on behalf of Jerry Arnette. In order to begin our review, we will need Mr. Arnette to complete all pages of an Authorized Representative Form naming Ms. Louzri as his authorized representative. The form is attached and available on PEBA's website.

Sincerely,

Insurance Appeals Division

(o) | IAD@peba.sc.gov
202 Arbor Lake Dr., Columbia, SC 29223
www.peba.sc.gov

Serving those who serve South Carolina

-----Original Message-----

From: Jenny Moore <Jmoore@fosterfoster.com>
Sent: Wednesday, November 4, 2020 4:14 PM
To: Insurance Appeals Division <IAD@peba.sc.gov>
Subject: Jerry Arnette

This is an external email. Think before you click on any links.

To Whom It May Concern,

Please see the attached appeal letter for the above referenced individual.

Thanks,

Jenny Moore
Intake Paralegal to Nathaniel W. Bax & M. Leila Louzri Foster Law Firm
25 Mills Avenue
Greenville, SC 29605
P: 864.242.6200 F: 864.688.0211
Website: https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.fosterfoster.com&c=E.LqETaUOazQ0-Dw0_vSyI7PwG1MMF-qGlX19CziPBa6ChR2lNZOyAdyhq63ZSI0pdyqKKGkHPQO7fUys_r-NG5xSk7CyX3sb02ju5bf2EjkkoxV1yGkXex&typo=1

-----Original Message-----

From: scans@fosterfoster.com <scans@fosterfoster.com>
Sent: Wednesday, November 4, 2020 4:05 PM
To: Jenny Moore <Jmoore@fosterfoster.com>
Subject: Xerox Scan

Please open the scanned attachment

Number of Images: 5

Attachment File Type: PDF

Device Name: Foster Law Firm

Device Location: Back up

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016

FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

M. Leila Louzri*
llouzri@fosterfoster.com
GREENVILLE
*Licensed in SC and NC

November 4, 2020

VIA E-MAIL (IAD@peba.sc.gov)
& U.S. MAIL

Appeals Coordinator
PEBA Insurance Benefits
202 Arbor Lake Drive
Columbia, SC 29223

RE: Jerry M. Arnette, Jr.
State of South Carolina
LTD Plan No.: 627284, 621144
Claim No.: 00FC6930, 00FF3058

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I thank you for your consideration in this matter and should you need anything further from me please do not hesitate to contact me. I will provide to you as soon as is possible the additional information which I wish for you to consider.

With kind regards, I remain,

Yours very truly,

M. Leila Louzri

MLL/jcm

Encl.

cc: Mr. Jerry Arnette

**CONFIRMATION OF REPRESENTATION AND
AUTHORIZATION FOR RELEASE OF RECORDS AND REPORTS**

10/11/19

Date

I, the undersigned, have hereby retained Attorney M. Leila Louzri and the law firm of Foster Law Firm, LLC to represent me in connection with my claim for Long Term Disability benefits.

Additionally, I hereby authorize Standard Ins. Co. to furnish to FOSTER LAW FIRM, LLC, Attorneys at Law, 601 E. McBee Avenue, Suite 104, Greenville, South Carolina 29601, any and all information, which may be requested, from any medical provider, my insurance company or my employer regarding me. Additionally, should I be successful on appeal, I instruct

STANDARD Insurance Company to send any check for benefits on my claim for Long Term Disability benefits to M. Leila Louzri, Esq., Foster Law Firm, LLC, 601 E. McBee Avenue, Suite 104, Greenville, SC 29601.

A photostatic copy of this authorization, which contains my signature, shall be considered as effective and valid as the original and shall be honored by those to whom it is sent or provided.

X [Signature]
SSN: [Redacted]
DOB: [Redacted]

Melvin R. Arnette
Witness

MEDICAL AUTHORIZATION FOR RELEASE OF RECORDS AND OTHER INFORMATION
IDENTIFYING INFORMATION

Patient's Name: TERRY MONROE ARNOLD, JR. SSID: [REDACTED] DOB: [REDACTED]

Thank you. Please provide the requested information and please enclose your bill for photostating with the requested records and mail to:

FOSTER LAW FIRM, LLC
601 East McBee Avenue, Suite 104
Greenville, SC 29601

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2. I have been advised that I have an absolute right to revoke this authorization by doing so in writing except to the extent that my medical provider or other covered entity has already taken action in reliance thereon.
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 - (i) A covered health care provider may condition the provision of research-related treatment on provision of an authorization for the use or disclosure of protected health information for such research under this section;
 - (ii) A health plan may condition enrollment in the health plan or eligibility for benefits on provision of an authorization requested by the health plan prior to an individual's enrollment in the health plan, if:
 - (A) The authorization sought is for the health plan's eligibility or enrollment determinations relating to the individual for its underwriting or risk rating determinations; and
 - (B) The authorization is not for a use or disclosure of psychotherapy notes under paragraph (a)(2) of this section; and
 - (iii) A covered entity may condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party on provision of an authorization for the disclosure of the protected health information to such third party.
4. I have further been advised that there is a potential for information disclosed pursuant to this authorization to be subject to a re-disclosure by the Foster Law Firm, LLC or other ultimate recipient and that if such happens that such re-disclosure information is no longer protected by the requirements of 45 C.F.R. 164.508.
5. I acknowledge that this authorization is written in plain language which I can understand and that I have had the opportunity to read this authorization and that I do understand it.
6. I have been advised that my medical provider or insurer, benefit plan, or other covered entity will receive a copy of the signed authorization.

AUTHORIZATION AND SCOPE

Given the above, I hereby authorize the Foster Law Firm, LLC to make a request for the following information and I hereby specifically authorize my medical providers, insurers, benefit plan, or other "covered entity" to provide the Foster Law Firm, LLC the following information which the medical provider to whom this request is directed has in its possession regarding my medical history and treatment:

1. Medical Reports of any sort	6. Complete Hospital or Facility Records
2. Emergency Room Records	7. Medical Reports and All Notes of Surgical and other treatment or care
3. X-ray, MRI Reports and other diagnostic test results	8. Laboratory Reports
4. Itemized Bill for Services to Patient with CPT & Diagnostic Codes	9. Treatment Notes
5. Psychiatric Reports and Records	10. Affidavits, Letters, Correspondence, Statements, and Medical Opinions Concerning My Treatment, Test Results, Condition, Prognosis, Restrictions, Limitations and Extent of Disability

I also authorize my physician, medical provider, insurer, or other covered entities to discuss my history, condition, treatment, claim and bills with the Foster Law Firm, LLC

STATEMENT OF PURPOSE

I hereby advise my medical provider that the purpose for which the aforementioned information is being requested to be provided to the Foster Law Firm, LLC is to be used by the law firm to evaluate my claim and to potentially be used in the prosecution of my claim if it is decided by myself and the firm that the claim warrants prosecution. The term "claim" is defined as a claim for benefits or otherwise from any insurer or employee benefit plan or a claim against a third person or company, such as an automobile accident or other tort claim.

EXPIRATION

This authorization, unless otherwise revoked by my in writing, expires at the earliest of the time at which my "claim" is concluded with finality or one year and six months from the date I executed this agreement as set forth below.

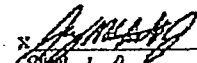
METHOD OF REVOCATION

I understand that if I am to revoke this authorization that I may and shall do so by notifying the Foster Law Firm, LLC in writing of my desire to revoke this authorization and by instructing the Foster Law Firm, LLC to forward a photocopy of my revocation of this authorization to each medical provider to whom this authorization has previously been sent. Should I revoke this authorization I fully understand the exceptions to my right of revocation as set forth above.

I understand that I have certain rights pursuant to 45 C.F.R. § 164.508 and should I desire a further explanation of those rights that I may inquire as to the Foster Law Firm, LLC of those rights. Having considered my rights pursuant to the aforementioned Federal Regulation and enacting legislation and having been apprized of my rights to the extent that I have desired, and being satisfied with those rights and the obligations of my providers, I hereby specifically direct my medical provider, insurer, benefit plan, or other covered entity to whom this authorization is addressed or presented to provide the above specified records and information at the request of the Foster Law Firm, LLC and to the Foster Law Firm, LLC

I. If client/patient is signing on his or her own behalf, sign here:

Date: 10/11/15



Helen R. Arnette
Witness

II. If client is signing on behalf of another person, please specify the person for which the authorization is being provided and please specify the document or basis from which the undersigned has authority to request medical records on behalf of the specified person and attach a copy of any such document to this release and authorization.

Date: _____

X _____
Client
X _____
Witness

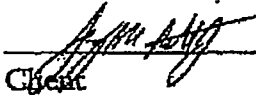
Document by which the above has authority to sign:
(a copy of which is attached hereto)

14. ASSIGNMENT:

By the signature below, client hereby irrevocably grants and assigns to M. Leila Louzri and the law firm of Foster Law Firm, LLC any and all rights client has to one-third (1/3rd) of any benefits or monies that may be paid to client or on client's behalf by or from any insurance company, HMO plan and employee benefit plan or other defendant(s) or entity(s) who may be a party or potential party to any lawsuit brought on my behalf by Ms. Louzri and her firm relating to this agreement.

The assignment shall supersede and be superior to any and all assignments previously executed by client to any individual or entity relating to the same benefits or monies. This assignment cannot be revoked by client after client's case has been settled, tried or at such point as monies or benefits have been procured for client or on client's behalf.

Signed this 11th day of October, 2019.


Client

Client



FOSTER LAW FIRM, LLC
ATTORNEY AND COUNSELORS AT LAW
ATTN M. LEILA LOUZRI
25 MILLS AVE
GREENVILLE SC 29605

October 26, 2020	
State Of South Carolina	
Claim:	Contract:
00FC6930	627284
00FF3058	621144

Standard Insurance Company is the Claims
Administrator for State Of South Carolina

Dear Ms. Louzri,

As Claims Administrator for the State of South Carolina's Long Term Disability (LTD) Plan, the Administrative Review Unit of Standard Insurance Company (The Standard) has completed our review of the decision to close Mr. Jerry Arnette's LTD Benefits claim. This was an independent review conducted separately from the individuals who made the original determination. After carefully considering all the information currently contained in his file, we find Mr. Arnette did not satisfy the Any Occupation Definition of Disability due to a condition which is not subject to a Limited Pay Period after May 14, 2019. As such, we find the decision to close his claim as of that date is correct. An explanation of our findings follows.

In order to be eligible to continue to receive LTD Benefits beyond 24 months, an individual must meet the Any Occupation Definition of Disability due to a condition which is not subject to a Limited Pay Period as described in the LTD Plan.

Mr. Arnette ceased work as a Drivers License Examiner on February 14, 2017, due to degenerative disc disease. After an initial investigation, the LTD claim was approved as it was felt his conditions precluded work activity in his Own Occupation. In a letter, dated May 16, 2019, Mr. Arnette was notified of the closure of his claim as he had reached the Maximum Benefit Period for degenerative disc disease as this condition is subject to a Limited Pay Period under the terms of the State of South Carolina LTD Plan.

An Administrative Review was conducted on the decision to limit and close Mr. Arnette's claim and it was determined that decision was correct. Please refer to The Standard's letter, dated March 31, 2020, for details regarding that review. Additional diagnoses were supported in that review and an additional review was conducted to determine if he met the Any Occupation Definition of Disability due to any condition which was not subject to a Limited Pay Period after May 14, 2019. Employee Benefits Services made the determination the additional diagnoses did not support limitations and restrictions of a severity to meet the Any Occupation Definition of Disability.

This review will focus solely on the additional diagnoses which are excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions.

The Standard received your request for review on the closure of Mr. Arnette's LTD claim on July 1, 2020. You stated there were additional records you wished to provide in support of his claim for Benefits. As such, the review was deferred until you were able to provide the additional records.

On September 18, 2020, we received the last of the records you wished for us to consider and we proceeded with the review as of that date.

Mr. Arnette originally ceased work on February 14, 2017, and his claim for LTD benefits was approved and paid through the entire 24-month Own Occupation Period, which ran from May 15, 2017 through May 14, 2019. After which, the Definition Of Disability changed to the Any Occupation Definition as outlined above.

According to the terms of the State of South Carolina LTD Plan, to be considered eligible for benefits an individual must be unable, due to Physical Disease, Injury, Pregnancy, or Mental Disorder, to perform with reasonable continuity the Material Duties of his Own Occupation for the first 24 months. After 24 months, Disability means a Physical Disease, Injury, Pregnancy or Mental Disorder of a severity to limit the ability to perform with reasonable continuity the Material Duties of Any Occupation.

The LTD Plan defines Any Occupation as any occupation or employment which one is able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which one can be expected to earn at least 65% of their Indexed Predisability Earnings within twelve months following a return to work, regardless of whether they are working in that or any other occupation.

Additionally, the State of South Carolina LTD Plan provides that you must provide adequate Proof Of Loss in support of Disability. Copies of the above noted LTD Plan provisions are enclosed for your reference.

As part of the additional review of Mr. Arnette's claim, a Vocational Case Manager reviewed the information in the file and determined that he would be able to perform suitable alternate occupations based on his education, training, and experience. These included appointment clerk, customer complaint clerk, and customer service representative. The U.S. Department of Labor places these occupations within the Sedentary strength range.

S- Sedentary Work – Exerting up to 10 pounds of force occasionally. (Occasionally: activity or condition exist up to 1/3 of the time) and/or a negligible amount force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

These occupations are all entry level positions requiring no additional training or experience. The skills and aptitude levels fall below Mr. Arnette's stated education of obtaining a Bachelor's degree. He has demonstrated sufficient skills and aptitude levels throughout his education and work history to qualify for employment in all of these occupations. On that basis, we considered whether the medical information in the file supported impairment which would prevent Mr. Arnette from performing the demands of Sedentary strength level work activity, or otherwise prevent him from performing the Material Duties of the occupations listed above.

During the independent review, we evaluated all the information currently contained in his file, including additional medical records sent by your office on August 20, 2020 and September 15, 2020. Please be assured that while not all medical chart notes may be described in this letter, we have reviewed and taken all medical records available to us into consideration. In addition, this review will focus on conditions which are not limited according to the terms of the LTD Plan.

The medical documentation provided supports diagnoses of neck, low back, and mid back pain. These conditions are considered diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. The medical documentation also supports a diagnosis of lumbar radiculopathy.

Dr. Highsmith noted on September 8, 2019, that Mr. Arnette suffered mid back pain radiating into the paraspinal muscles. His low back pain was also noted to be radiating to the right foot. His strength was

noted to be intact but diminished sensation in the dorsal right foot. There was tenderness of the cervical and lumbar muscles.

As of July 31, 2020, Dr. Highsmith reported Mr. Arnette had neck, mid, and low back pain. His neck pain and radicular arm pain had improved since undergoing cervical arthroplasty, but he continued to have neck stiffness. Mr. Arnette's biggest complaint appeared to be mid thoracic pain radiating to the chest wall as well as numbness, tingling, and weakness with pain in the right foot.

In reviewing the medical records, there did not appear to be any significant changes to Mr. Arnette's condition since our last medical review.

As part of the review process, we had Mr. Arnette's file reviewed for consideration and comment with a Physician Consultant board certified in Neurology. The Physician Consultant noted the available medical documentation supported conditions of lumbar radiculopathy, axial neck, low back, and mid back pain. He offered limitations and restrictions were supported, however all limitations and restrictions could be attributed to diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue. The radiculopathy did not offer limitations and restrictions from sedentary level work activity.

In evaluating Mr. Arnette's claim, The Standard must consider his reported symptoms and the medical history and records presently available in Mr. Arnette's file. We understand he may have ongoing complaints of pain, and his diagnoses of degenerative disc disease may continue to be supported. However, as noted, these conditions are considered limited by the State of South Carolina LTD Plan. We did find that Mr. Arnette has a supported radiculopathy which is not limited under the LTD Plan and we also found that his radiculopathy is of a severity to cause limitations and restrictions. However, we do not find that the limitations and restrictions are so severe that they would preclude his ability to perform sedentary level work activities or the alternative occupations that were identified.

After reviewing all the information contained in Mr. Arnette's file, while we find he has ongoing limitations and restrictions due to his non-limited condition, we do not find the limitations and restrictions to be so severe he is precluded from all work activity. As such, we do not find he meets the Any Occupation Definition of Disability. Therefore, we find the decision to close his claim was correct.

The decision to close the LTD Benefits claim has been upheld for the reasons outlined above. Please be assured that our review was conducted fairly and objectively taking into consideration all the available information and the provisions of the State of South Carolina LTD Plan applicable to this claim.

If you so request, we may provide you copies of all non-privileged documents, records and other information relevant to this decision. Please contact the Employee Benefits Services Department at 1-800-368-1135, for that information. You are entitled to a copy of that info upon request, but may be charged a reasonable fee for those copies.

We must also advise you that upon further consideration other valid reasons for closing or limiting Mr. Arnette's claim, which have not been previously considered, could come to our attention. Therefore, both the State of South Carolina and The Standard reserve the right to consider and assert other valid reasons for closure or limitation of his claim should they occur in the future.

The State of South Carolina LTD Plan provides for an employer paid Basic LTD Plan that is self-funded by the State of South Carolina, and an optional employee paid Supplemental LTD Policy that is insured by The Standard.

While The Standard administers claims for benefits filed under the self-funded Basic LTD Plan, the State of South Carolina is the insurer for the Basic LTD Benefit and is ultimately responsible for payment or nonpayment of claims filed under the Basic LTD Plan. On the other hand, The Standard is the insurer for Supplemental LTD benefits and is ultimately responsible for payment or nonpayment of claims filed under the Supplemental LTD Policy.

Both the Basic LTD Plan and the Supplemental LTD Policy provide for one independent review by The

Standard. With your receipt of this letter, that review is now complete. However, the Basic LTD Plan provides for an additional review of the Basic LTD claims by the State of South Carolina. That additional review does not apply to claims for Supplemental LTD Benefits.

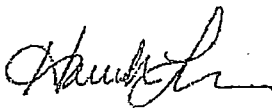
If you wish to further pursue the decision to close Mr. Arnette's Basic LTD claim, please address your written correspondence to the following within 90 days:

Appeals Coordinator
PEBA Insurance Benefits
202 Arbor Lake Drive
Columbia, SC 29223

As the Administrative Review Unit's review of your client's LTD claim is complete, Mr. Arnette's file is being returned to Employee Benefits Services.

We hope that this letter has addressed all of your concerns regarding the decision to close this LTD Benefits claim.

Sincerely,



Hannah Litscher
Benefits Review Specialist
800.368.1135 ext. 5074
fax 971.321.5038

Enclosures: Prior Letter(s) - March 31, 2020; October 25, 2020



FOSTER LAW FIRM
ATTN LEILA LOUZRI
25 MILLS AVE
GREENVILLE SC 29605

June 25, 2020
State Of South Carolina
Claim: 00FC6930 Contract: 627284
00FF3058

Standard Insurance Company is the Claims
Administrator for State Of South Carolina

Dear Ms. Louzri,

We are writing in regard to Jerry Arnette's Long Term Disability (LTD) claim with Standard Insurance Company (The Standard), Claims Administrator for the State of South Carolina LTD Plan.

Mr. Arnette's LTD claim previously closed on May 14, 2019, because we found his conditions were subject to the 24 month Chronic Pain, Musculoskeletal and Connective Tissue Disorders Limitation.

After review of your appeal, the Administrative Review Unit determined that Mr. Arnette continues to have limitations and restrictions due to a non-Limited condition.

To continue to receive benefits beyond May 14, 2019, he must also meet the Any Occupation Definition of Disability, from a nonlimited condition, for which he has the education, training, and experience. A copy of the Plan provision is attached.

Medical Information

After review of additional medical information, a Physician Consultant, board certified in Physical Medicine and Rehabilitation, noted in his findings that the records support several diagnoses, including COPD, hypertension, gout, hyperlipidemia, arthropathy of multiple joints, chronic kidney disease, cataracts and hallux rigidus. However, he also provided his medial opinion that the available medical information did not support any of those conditions, either alone or in any combination, are documented as being of such severity as to result in any functional impairment.

The Physician Consultant did find that Mr. Arnette continues to have limitations related to lumbar radiculopathy with neurological abnormalities. Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day.

Vocational Information

We understand that he may remain unable to perform the Material Duties of his previous Occupation as a License Clerk, which was Light strength in demand, and could have involved significant standing and walking. However, the information currently available in the claim file supports that he is capable of performing Sedentary level work on a reasonably continuous basis.

Sedentary level work is defined as follows in the Dictionary of Occupational Titles, Fourth Edition, Revised 1991, US Department of Labor Employment and Training Administration:

S- Sedentary Work – Exerting up to 10 pounds of force occasionally. (Occasionally: activity or condition exist up to 1/3 of the time) and/or a negligible amount force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

Based on his ability to engage in alternative occupations, with the above noted accommodations, a Vocational Consultant has reviewed the claim to determine if alternate occupations could be identified, which he would be capable of performing. The Vocational Consultant identified the following Sedentary occupations, taking into consideration his limitations and restrictions and education, training and experience.

REAL-ESTATE CLERK: Maintains records concerned with rental, sale, and management of real estate, performing any combination of following duties: Types copies of listings of real estate rentals and sales for distribution to trade publications, and for use as reference data by other departments. Computes interest owed, penalty payment, amount of principal, and taxes due on mortgage loans, using calculating machine. Holds in escrow collateral posted to ensure fulfillment of contracts in transferring real estate and property titles. Checks due notices on taxes and renewal dates of insurance and mortgage loans to take follow-up action.

CUSTOMER SERVICE REPRESENTATIVE: Interviews applicants and records interview information into computer for water, gas, electric, telephone, or cable television system service: Talks with customers by phone or in person and receives orders for installation, turn-on, discontinuance, or change in service. Fills out contract forms, determines charges for service requested, collects deposits, prepares change of address records, and issues discontinuance orders, using computer.

RECEPTIONIST: Receives callers at establishment, determines nature of business, and directs callers to destination: Obtains caller's name and arranges for appointment with person called upon. Directs caller to destination and records name, time of call, nature of business, and person called upon.

These occupations exist in reasonable numbers within Mr. Arnette's region, and are expected to pay at least 60% of his Indexed Predisability Earnings or \$9.69 per hour. Additionally, he has the education, training and experience to perform them based on his college degree, and experience in real estate, property management, customer service, and basic computer skills. All of the above demonstrates qualifying experience to perform these occupations.

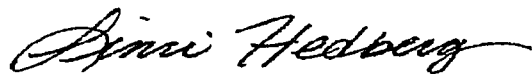
Conclusion

In order to be eligible for LTD Benefits the available information must support a level of impairment that precludes you from performing Any Occupation. Having a diagnosis, living with a medical condition, and/or receiving medical treatment does not necessarily constitute a Disability.

Based on the above, he does have the capability to perform suitable full time work activity. The occupations identified are within the limitations and restrictions previously identified. Additionally, the occupations are performed in an office setting, which should allow the ability to change position as needed for comfort.

Therefore, he does not meet the Group Policy's Any Occupation Definition of Disability when it changed on May 15, 2019, and his LTD claim will remain closed as of May 14, 2019.

Sincerely,

A handwritten signature in cursive script that reads "Simi Hedberg".

Simi Hedberg
Senior Disability Benefits Analyst
800.368.1135 ext. 7872
fax 866.415.9524

State Specific Rights Regarding Limitation, Denial or Closure of Your Claim

You may have state specific rights regarding The Standard's decision.

If you live in California or your policy is issued in California:

You have the right to contact the State of California Department of Insurance to request a review of this matter.

Department of Insurance, Consumer Communications Bureau
300 South Spring Street, South Tower
Los Angeles, California 90013
Toll-free: 800.927.4357
213.897.8921

If you live in Illinois or your policy is issued in Illinois:

The Rules of the Illinois Division of Insurance (Part 919) requires The Standard to advise you that you have the right to contact the Illinois Division of Insurance to request a review of this matter.

Chicago:
Illinois Division of Insurance
122 S. Michigan Avenue, 19th Floor
Chicago, Illinois 60603
312.814.2420

Springfield:
Illinois Division of Insurance
320 West Washington Street
Springfield, Illinois 62767
217.782.4515

Website: www.insurance.illinois.gov

If you live in New Hampshire or your policy is issued in New Hampshire:

You have the right to contact the New Hampshire Insurance Department to request a review of this matter.

New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, New Hampshire 03301
Toll-free: 800.852.3416

If you live in South Dakota or your policy is issued in South Dakota:

Your Group Policy doesn't provide voluntary alternative dispute resolution options. However, you may contact the U.S. Department of Labor Office and the South Dakota Division of Insurance for assistance.

If you live in West Virginia or your policy is issued in West Virginia:

The West Virginia Code of State Rules (Section 114-14-6.18) requires The Standard to advise you that you have the right to contact the West Virginia Insurance Commissioner to request a review of this matter.

West Virginia Insurance Commissioner
P.O. Box 50540
Charleston, West Virginia 25305
Toll-free: 888.879.9842

Website: www.wvinsurance.gov

Right to Request Review of This Decision

If you wish to request a review of this decision, you must send The Standard a written request within 180 days of receiving this letter. However, as a result of COVID-19 we are suspending this 180-day requirement until a date in the future to be determined by the United States Department of Labor (DOL). Accordingly, the deadline for you to request a review of this decision will be 180 days after the date announced by the DOL. The DOL has indicated that this date may be 60 days after the end of the national state of emergency that has been declared due to the COVID-19 pandemic. If you are concerned about requesting a review within the timeframe described above or have questions about the amount of time you have to request a review, please contact me.

You have the right to submit additional information about your claim. The Request a Review of this Decision section of this letter lists helpful information.

Individuals and medical professionals (if necessary) not involved in the original decision of your claim are consulted during the review.

The review is completed within 45 days after your request is received. If there are circumstances beyond our control, an additional 45 days may be required.

Please be advised no internal rules or guidelines were used by The Standard to evaluate your claim.

If the decision to limit, deny, or close your claim is upheld, you may have the right to bring civil action under applicable law.

You have the right to request copies of all documents, records and other information about your claim at no charge.

The Standard reserves the right to consider and assert other reasons for limiting or denying your claim in the future if they come to our attention during the review.

Please consult your Certificate of Insurance or Summary Plan document for a complete description of your rights under the terms of your Plan.

DEFINITION OF DISABILITY

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

A. Own Occupation Definition of Disability

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled only from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of your Own Occupation.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as your regular and ordinary employment with the Employer. Your Own Occupation is not limited to your job with your Employer.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license, or because you suffer a loss of Predisability Earnings as a result of disclosure of any Physical Disease, Injury, Pregnancy or Mental Disorder.

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

C. Partial Disability Definition

1. During the Benefit Waiting Period and the Own Occupation Period you are Partially Disabled when you work in your Own Occupation but, as a result of Physical Disease, Injury, pregnancy or Mental Disorder, you are unable to earn the Own Occupation income Level or more.

2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to earn the Any Occupation Level, or more, in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See Return to Work Incentive and Deductible Income.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the Coverage Features.

Date: 6/19/2020
 To: The file of: JERRY ARNETTE JR
 Policy number 627284 621144
 Basic Claim number 00FC6930 Optional Claim No. 00FF3058 Other Claim No.
 Re: Close Own Occ Review Choose your policy
 Analyst: SIMI HEDBERG

SUMMARY INFORMATION

Spell Check

Disability Date : 8/23/2017
 Own Occupation end date : 5/14/2019
 Own Occupation: Drivers license Examiner (light)
 PDE: \$2,524.58
 DOB: [REDACTED] DOB matches DOB in ProClaim? Yes

Diagnosis:

lumbar radiculopathy

Limitations and Restrictions:

"Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day."

Vocational History:

BS degree in sociology 1992
 computer experience, customer service experience

Please include screen shots of offsets and Paid vs Payable as they appear in ProClaim

ADJUSTMENT PERIOD FROM: 051517	BO A 051517 20 073117
TO: 051419	20 0080000
BENEFITS PAYABLE: 6,712.16	BO A 080117 20 051419
BENEFITS PAID: 6,712.16	20 0021786
UNDERPAYMENT: .00	P1 X 021418 20 082769
OVERPAYMENT: .00	20 0020000
ADJUSTMENT PERIOD FROM: 051517	SA A 051517 20 051517
TO: 051419	20 0252458
BENEFITS PAYABLE: 4,206.77	SD A 080117 20 082769
BENEFITS PAID: 4,206.77	20 0136000
UNDERPAYMENT: .00	
OVERPAYMENT: .00	

Is claimant currently working? NO

Has the MRD/RTD form been completed for any reviews due in the next four weeks? YES

Does Station in Life need to be considered in your analysis? NO

Check accumulators on all claims. Is there an underpayment/overpayment on any claim? NO

R 87

0140

To: The file of: JERRY ARNETTE JR
Policy number 627284 621144
Basic Claim number 00FC6930 Optional Claim No. 00FF3058 Other Claim No.
Re: Close Own Occ Review Choose your policy
Analyst: SIMI HEDBERG

Date 500 letter sent 08/29/2017

Have Limits been appropriately addressed? YES

If policy includes ASO, has hybrid rollover letter been sent? N/A

Is there a POA, Guardianship or conservatorship? No

☒ Close at end of Own Occupation Period

☒ See Letter for details

Rationale for decision:

The claim was previously closed after 24 months for the Chronic Pain, Musculoskeletal And Connective Tissue Disorders Limitation. After an ARU review/overturn, the claimant does have lumbar radiculopathy, which is not a limited condition.

A Physician Consultant reviewed and determined limitations due to his lumbar radiculopathy include occasional standing and walking.

A vocational case manager reviewed his education, training and experience and identified the occupations of Real Estate Clerk, Customer Service Representative, and Receptionist, that are all sedentary in demand, exist in his labor market in sufficient numbers, and meet the wage requirement in the Plan.

Are all diaries cleared after 5/14/2019 YES

Please confirm dependent child DOB N/A

Reminder If closure ltr sent more than 3 mos. before closure date, include rev language for early closures & enter CD AO FM 2 wks before actual closure date.

I have verified the accuracy of the information on this form, and my recommendations are noted above.

Analyst: Simi Hedberg Date: 06/18/20

I have verified the accuracy of the information on this form, and I agree with all recommendations.

- Change ProClaim 'Type' to O, verified close date
- Over-rides on LT screen 2 will not interfere with accurate AO closure
- Milestone Diary entered: CD AO CL
- Any SS offset remaining in status "E" has been changed to status "D"
- Claim closure notice sent to LWOP and CLI code changed to C
- Any Occ Flag to Y

Manager: _____

R 88

Date: _____

0141



TheStandard®

CLAIMS ADMINISTRATOR
for the State of South Carolina
Long Term Disability Plan

March 31, 2020

Ms. M. Leila Louzri
Foster Law Firm LLC
25 Mills Ave
Greenville SC 29605

Re: Jerry M. Arnette, Jr.
State of South Carolina
Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

As Claims Administrator for the State of South Carolina's Long Term Disability (LTD) Plan, the Administrative Review Unit of Standard Insurance Company (The Standard) has completed our review of the decision to limit and close the LTD claim of your client, Jerry M. Arnette, Jr. This review was conducted separately from the individuals who reached the initial claim decision.

After considering all the information contained in his file, we find the decision to limit your client's LTD claim to 24 months of benefits under the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation of the State of South Carolina LTD Plan with regard to his Disability caused and/or contributed to by his degenerative disc disease and osteoarthritis is correct. Therefore, no additional LTD benefits are payable for either of those conditions, or any other conditions falling within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions, after May 14, 2019.

However, we also find Mr. Arnette has limitations and/or restrictions from working after that date due to his additional diagnosis of lumbar radiculopathy with neurological abnormalities, which is a condition specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions under the Disabilities Subject To Limited Pay Periods provision of that same LTD Plan. As such, your client's file will be returned to Life & Disability Services for additional evaluation to determine his eligibility, if any, for additional benefits after May 14, 2019, due to that non-Limited condition, under the Definition of Disability that was applicable to his claim at that time. The following is an explanation of our findings.

First, please recall, the State of South Carolina LTD Plan asserts that payment of benefits is limited to 24 months, during a Member's entire lifetime, for any Disability caused or contributed to by Chronic Pain, Musculoskeletal And Connective Tissue Conditions including, but not

limited to, any disease or disorder of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, sprains or strains of joints of muscles, and arthritis (other than rheumatoid or psoriatic arthritis). A copy of that provision is enclosed for your reference.

Following an initial claim investigation, Mr. Arnette's claim was approved based primarily on his cervical spine (neck) and lumbar (lower back) conditions, and the surgery he underwent for his neck in early March of 2017. That meant that, after his 90-day Benefit Waiting Period, LTD benefits became payable to your client as of May 15, 2017. However, it was later determined the medical information in his file supported his Disability was caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions as defined under the Disabilities Subject To Limited Pay Periods provision of the State of South Carolina LTD Plan.

In that regard, Mr. Arnette's LTD claim was closed as of May 14, 2019, as it was determined that the information in his file did not support ongoing impairment from performing his Own Occupation of Driver's License Examiner due to one or more medical conditions that would not have been subject to the same 24-month Limited Pay Period. Our review finds that your client was notified of the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation being applied to his LTD claim in a letter dated May 16, 2019, from Senior Disability Benefits Analyst Simi Hedberg (copy enclosed).

Subsequently, in a letter dated October 18, 2019, you requested a review of the decision to limit Mr. Arnette's claim under the above noted provision, and close it as of May 14, 2019. However, you indicated you would supply additional medical information that you wanted included in our review, the last of which was received on January 21, 2020. In that regard, that was the day we began our review of the decision to limit and close Mr. Arnette's LTD claim.

As such, the focus of our review was to determine if the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation under the Disabilities Subject To Limited Pay Periods provision of the State of South Carolina LTD Plan was appropriately applied to Mr. Arnette's LTD claim and, if so, if his claim should have been closed as of May 14, 2019.

During our review, we found the medical information available in your client's file at present includes documents and records received from the offices of Dr. Timothy Fitzgibbon (Family Medicine), Dr. Jason M. Highsmith (Neurosurgeon), Dr. Edward M. Tavel (Pain Medicine), Dr. Richard Klein (Pain Medicine), Dr. Neil Griffin (Ophthalmology), Dr. Mohamed Zein (Pulmonology), Dr. Shawn P. McKay (Otolaryngology), Dr. John W. French (Ophthalmology), Dr. Edwin Blitch IV (Podiatry), Dr. Deepak Chowdhary (Gastroenterology), Dr. Venugopal Govindappa (Nephrology), Dr. Richard M. Silver (Rheumatology), Dr. Anil Om (Cardiology), and Dr. Richard D. Guyer (Orthopedic Surgery).

Based on our review, we found that, in addition to his medical conditions of degenerative disc disease and osteoarthritis, Mr. Arnette had several other diagnoses for which he sought and/or continues to seek medical care and treatment, including but not limited to COPD, hypertension,

gout, hyperlipidemia, asthma, chest pain with heart rhythm concerns, sleep apnea, chronic kidney disease, cataracts and hallux rigidus. We then had Mr. Arnette's file reviewed by an Independent Peer Review (IPR) Physician who is board-certified in Internal Medicine (IM), and an IPR Physician who is board-certified in Physical Medicine & Rehabilitation (PM&R).

Following his review, the IM Physician noted that, other than his spinal conditions, the available records support Mr. Arnette has the other, above noted, diagnoses, as well as sinusitis and testosterone deficiency that is stable on supplementation. Of note is that hallux rigidus is also a form of osteoarthritis. However, after reviewing the available records, the IM Physician provided his medical opinion that the documentation does not support limitations and/or restrictions that would result in any impairment from working due to those conditions. He noted those conditions were all documented as being stable on medical treatment and/or were not documented as causing secondary IM associated issues that would impact your client's functionality.

Similarly, the PM&R Physician noted that the available records support diagnoses of axial neck, mid and low back pain secondary to cervical disc disruption at the C4-5 disc level, status post two-level fusion, and lumbar disc disruption at the L3-S1 disc levels, status post L5 posterior decompression. He provided his medical opinion that those diagnoses fall within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions in that they are diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue.

Conversely, the PM&R Physician also noted the available medical records support radiculopathy confirmed by EMG on March 12, 2018, as well as "evident neurological abnormalities". As those diagnoses are specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions, we find the PM&R Physician further noted that, based solely on Mr. Arnette's lumbar radiculopathy with neurologic abnormalities, he would have limitations and/or restrictions continuing after May 14, 2019, through the present. He provided his medical opinion that those would include, but not be limited to, a limitation of standing or walking in intervals of up to 15 minutes at a time, for a total of one hour each per workday.

Based on the medical records and other documentation available in Mr. Arnette's file at present, our review finds that the medical opinions provided by the IPR Physicians are well reasoned and supported by the clinical findings documented by his own treating providers. As such, we do not find documentation in your client's file at present that supports he would have any limitations and/or restrictions from performing work activities on a full-time, reasonably continuous basis as of and continuing after May 15, 2019, due to his IM conditions when the limitations and/or restrictions caused by his Chronic Pain, Musculoskeletal And Connective Tissue Conditions are not taken into consideration.

In summary, we considered all the information available to us and found the decision to apply the lifetime, 24-month Limited Pay Period to Mr. Arnette's LTD claim with regard to his inability to work, and thus his Disability, caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions is correct. That finding is based on the fact that his initially

impairing medical conditions of neck and lower back pain were found to have been related to cervical and lumbar disc disruptions, and degenerative disc disease, which are diseases or disorders of the cervical, thoracic, and lumbar back and its surrounding soft tissue.

However, we also found the medical information supports the diagnosis of lumbar radiculopathy with neurologic abnormalities, which is a condition that is specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions. Therefore, additional analysis is needed to determine if Mr. Arnette meets the Definition of Disability applicable to his LTD claim due to that condition as of and continuing after May 15, 2019.

Please recall, the Definition of Disability of the State of South Carolina's LTD Plan changes after 24 months of benefits having been paid. Specific to Mr. Arnette's claim, the Definition of Disability changed as of May 15, 2019. Therefore, in order to be eligible for benefits as of and continuing after that date, your client would have needed to have been Disabled from Any Occupation at that time. Mr. Arnette was previously notified of the Definition of Disability provision in a letter dated September 19, 2018, from Disability Claim Assistant Kailee Recor (copy enclosed).

Since a determination regarding that Definition has not yet occurred for your client's claim, we are returning his file to Life & Disability Services to conduct an additional investigation to determine if Mr. Arnette meets the Any Occupation Definition of Disability after May 14, 2019.

In conclusion, the decision to limit Mr. Arnette's LTD claim to 24-months of benefits due to his Disability being caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions has been upheld for the reasons outlined above. While we understand your client may still be disappointed with this decision, please assure him that our review was conducted fairly and objectively, taking into consideration all of the information currently available to us and the LTD Plan provisions applicable to his claim.

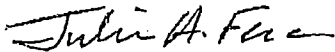
However, we also find the decision to close Mr. Arnette's claim due to the determination that ongoing impairment due to one or more medical conditions that would not have been subject to the same 24-month Limited Pay Period needs further evaluation, based on our finding that the available medical information supports a diagnosis of lumbar radiculopathy with neurologic abnormalities, which is a condition that is specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions. In that regard, your client's file is being returned to Life & Disability Services for additional investigation of that closure decision.

If it is determined that the medical and vocational information in Mr. Arnette's LTD claim file does not support that he met the Any Occupation Definition of Disability, his claim may remain closed as of May 14, 2019. You will be notified of their determination in writing immediately upon completion of that additional claim investigation. If that occurs, Mr. Arnette would be given information regarding his right to request a review of that decision at that time.

We must also advise you that, upon further investigation, other valid reasons for limiting, denying and/or closing Mr. Arnette's LTD claim, which have not been previously considered, could come to our attention. Therefore, both the State of South Carolina and The Standard reserve the right to consider and/or assert other valid reasons for limitation, denial or closure of his LTD claim should they occur in the future.

As the Administrative Review Unit's review of Mr. Arnette's LTD claim is now complete, his file has been returned to Life & Disability Services. If you or your client have any questions regarding the additional investigation of his LTD claim, please feel free to contact them directly at (800) 368-1135.

Sincerely,



Julie A. Fera, FLMI, ACS
Benefits Review Specialist
Administrative Review Unit
(800) 628-9696, Ext. 8621

Enclosures

Date: 6/19/2020
To: The file of: JERRY ARNETTE JR
Policy number 627284 621144
Basic Claim number 00FC6930 - Optional Claim No. 00FF3058 Other Claim No.
Re: Close Own Occ Review Choose your policy
Analyst: SIMI HEDBERG

SUMMARY INFORMATION

Spell Check

Disability Date : 8/23/2017
Own Occupation end date : 5/14/2019
Own Occupation: Drivers license Examiner (light)
PDE: \$2,524.58
DOB: [REDACTED] DCB matches DOB in ProClaim? Yes

Diagnosis:

lumbar radiculopathy

Limitations and Restrictions:

"Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day."

Vocational History:

BS degree in sociology 1992

computer experience, customer service experience

Please include screen shots of offsets and Paid vs Payable as they appear in ProClaim

ADJUSTMENT PERIOD FROM: 051517	BO A 051517 20 073117
TO: 051419	20 0080000
BENEFITS PAYABLE: 6,712.16	BO A 080117 20 051419
BENEFITS PAID: 6,712.16	20 0021786
UNDERPAYMENT: .00	P1 X 021418 20 082769
OVERPAYMENT: .00	20 0020000
ADJUSTMENT PERIOD FROM: 051517	SA A 051517 20 051517
TO: 051419	20 0252458
BENEFITS PAYABLE: 4,206.77	SD A 080117 20 082769
BENEFITS PAID: 4,206.77	20 0136000
UNDERPAYMENT: .00	
OVERPAYMENT: .00	

Is claimant currently working? NO

Has the MRD/RTD form been completed for any reviews due in the next four weeks? YES

Does Station in Life need to be considered in your analysis? NO

Check accumulators on all claims. Is there an underpayment/overpayment on any claim? NO

R 97

To: The file of: JERRY ARNETTE JR
Policy number 627284 621144
Basic Claim number 00FC6930 Optional Claim No. 00FF3058 Other Claim No.
Re: Close Own Occ Review Choose your policy
Analyst: SIMI HEDBERG

Date 500 letter sent 08/29/2017

Have Limits been appropriately addressed? YES

If policy Includes ASO, has hybrid rollover letter been sent? N/A

Is there a POA, Guardianship or conservatorship? No

☒ Close at end of Own Occupation Period

☒ See Letter for details

Rationale for decision:

The claim was previously closed after 24 months for the Chronic Pain, Musculoskeletal And Connective Tissue Disorders Limitation. After an ARU review/overtake, the claimant does have lumbar radiculopathy, which is not a limited condition.

A Physician Consultant reviewed and determined limitations due to his lumbar radiculopathy include occasional standing and walking.

A vocational case manager reviewed his education, training and experience and identified the occupations of Real Estate Clerk, Customer Service Representative, and Receptionist, that are all sedentary in demand, exist in his labor market in sufficient numbers, and meet the wage requirement in the Plan.

Are all diaries cleared after 5/14/2019 YES

Please confirm dependent child DOB N/A

Reminder If closure ltr sent more than 3 mos. before closure date, include rev language for early closures & enter CD AO FM 2 wks before actual closure date.

I have verified the accuracy of the information on this form, and my recommendations are noted above.

Analyst: Simi Hedberg Date: 06/18/20

I have verified the accuracy of the information on this form, and I agree with all recommendations.

- Change ProClaim 'Type' to O, verified close date ✓✓
- Over-rides on LT screen 2 will not interfere with accurate AO closure ✓✓
- Milestone Diary entered: CD AO CL ✓✓
- Any SS offset remaining in status "E" has been changed to status "D" ✓✓
- Claim closure notice sent to LWOP and CLI code changed to C ✓✓
- Any Occ Flag to Y ✓✓

Manager: [Signature]

R 98 Date: 6/22/20

ARU Decision Memo

Date: 03-30-20

Claimant/Claim No: Jerry M. Arnette, Jr. / 00FC6930, 00FF3058

Reason for appeal: Limitation closure

From: Julie A. Fera, Benefits Review Specialist

Determination: At this time, per information currently available in this claim file, additional investigation is required to determine if Mr. Arnette meets the Any Occupation Definition of Disability of the State of South Carolina LTD Plan, due to his documented non-Limited medical condition of lumbar radiculopathy with neurologic abnormalities.

Review Summary: Mr. Arnette is a 50 year old Driver's License Examiner, who last worked on 02-13-17, due to neck pain. He underwent a two-level ACDF on 03-06-17. Prior to then he had already undergone lumbar microdiscectomy with decompression in 05/2016. Since his cease work date, he has also undergone cataracts and septoplasty surgeries, and has been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint polyarthropathies, and hallux rigidus.

After an initial claim investigation, this claim was approved due to Mr. Arnette's inability to perform significant standing/walking due to his neck and back conditions, which impaired him from his Own Occupation of Driver's License Examiner as it requires Light Work capability. Later, it was determined Mr. Arnette's impairing medical conditions fell within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Disorders, which means his Disability caused by those conditions was Limited to a maximum of 24-months of benefits.

However, it was then determined Mr. Arnette's other, non-Limited medical conditions, as noted above, were not documented as being of such severity, in and of themselves, as to impair him from being able to perform at least Light Work, when his limitations and/or restrictions caused by his Limited conditions were not taken into consideration. That decision meant Mr. Arnette's claim would be closed after 24-months of benefits, ending 05-14-19, due to a finding that he did not meet the applicable Definition of Disability beyond then due to one or more conditions not subject to the Limited Pay Period provision stipulated in the LTD Plan. He was notified of that limitation and closure decision in a letter dated 05-16-19, after which his attorney requested a review of that decision on his behalf. Subsequently, she provided additional medical information to be included in our review, the last of which was received on 01-21-20. As such, we began our administrative review of Mr. Arnette's LTD claim as of that date.

During our review, the Administrative Review Unit had Mr. Arnette's file reviewed by an Independent Peer Review (IPR) Physician board-certified in IM and one board-certified in Physical Medicine & Rehabilitation (PM&R). After his review, the IM IPR Physician noted his findings that the records support several diagnoses, including COPD, hypertension, gout, hyperlipidemia, arthropathy of multiple joints, chronic kidney disease, cataracts and hallux rigidus. However, he also provided his medial opinion that the available medical information did

not support any of those conditions, either alone or in any combination, are documented as being of such severity as to result in any functional impairment. In that regard, his opinion was that impairment from full-time work was not supported due to those conditions. Conversely, the IM IPR Physician noted Mr. Arnette has "evident herniated disks with neurological abnormalities, radiculopathy confirmed with EMG work-up identifying lumbosacral radiculopathy; also, spondylosis, confirmed with imaging".

The PM&R IPR Physician noted the available records support diagnoses of axial neck, mid- and low back pain, cervical disc disruption C4-5, status post C5-7 ACDF, lumbar disc disruption L3-S1 status post L5 posterior decompression, and chronic L5-S1 radicular changes. He further noted Mr. Arnette's "3/12/18 EMG reflected [those changes] and confirmed radiculopathy", and that Mr. Arnette "also has evident neurological abnormalities". The PM&R IPR Physician provided his medical opinion that, due solely to his lumbar radiculopathy, Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day.

In that regard, the Administrative Review Unit finds the currently available medical records support Mr. Arnette has lumbar radiculopathy with neurological abnormalities, which is a condition specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Disorders. Our review also finds that Mr. Arnette had and continues to have limitations and/or restrictions due to that non-Limited condition impairing him from performing Light Work as of and continuing after 05/14/19. Therefore, this file will be returned to Life & Disability Services, for a determination regarding Mr. Arnette's eligibility for any additional benefits after that date under the Definition of Disability of the State of South Carolina LTD Plan applicable at that time.

Case Notes

JERRY ARNETTE

Claim 00FC6930

Analyst	STSSHEDB	Product	LTD
Case Manager	Carol Short	Status	AO R
Group Number	10033710		
Contract Id:	627284		

January 22, 2019

Return to Analyst

Carol Short *cds*

File received in team consult on 01/17/19.

The claimant is a 47 year old driver's license examiner who CW 02/13/17 due to lumbar disc and cervical disc, per APS completed by Dr. Highsmith's (neurosurgery) office on 05/11/17. The claimant is status post lumbar L4-5 microdiscectomy, performed on 05/09/16. He has been followed for multiple chronic medical conditions.

On 03/06/17 the claimant underwent C5-6 and C6-7 anterior cervical discectomy and arthroplasty (fusion). He has continued to follow up with neurosurgery.

On 04/26/17 the claimant underwent left foot cheilectomy of the 1st metatarsophalangeal joint.

The claimant has been followed by pain management with regard to his lumbar spine. He underwent lumbar facet nerve blocks bilaterally at L3-4, L4-5, and L5-S1 on 04/20/17. On 05/04/17, he underwent radiofrequency ablation (RFA) medial branch nerve at left L3-4, L4-5, L5-S1 facet joints.

On 07/10/17 the claimant underwent right eye cataract extraction. On 10/09/17 he underwent extraction of after-cataract, right eye. On 11/17/17 he underwent extraction of after-cataract, left eye.

On 07/26/17 the claimant underwent septoplasty and turbinate reduction.

Dr. Ashley Hart reviewed the claim file on 08/28/18. Additional medical records have been received since that time, including electrodiagnostic studies on 03/12/18, lumbar MRI dated 09/28/18, and chart note from Dr. Guyer (ortho spine) dated 11/07/18.

Discussed claim with analyst. As claimant is seeing new provider for his spine condition, will request records from Dr. Guyer's office. When records received, will re-refer for PC review.

Please request records from the following providers:

Richard D. Guyer, MD (from 11/01/18 to present)
Texas Back Institute - Plano
6020 W Parker Rd Ste 200, Plano, TX 75093
Phone: (972) 608 - 5000 *✓ JAT*

Timothy A. Fitzgibbon, MD (from 01/01/18 to present)
Dillon Family Medicine
Address: 603 N 6th Ave, Dillon, SC 29536
Phone: (843) 774 - 7336 *✓ JAT*

RECEIVED
JAN 23 2019
Employee Benefits - LTD

Claimant/Contract information present to the claim

Management Plan

Claimant Name: Jerry M. Arnette Jr.					Outcome: Expected to Recover				
Authorized to correspond with:					Recover, if yes when closure letter sent?				
LTD Claim No. 00FC6930		Supp Claim# 00FF3058			Return to work(check one) ☒ Own Occ ☐ Any Occ				
Benefit Waiting Period:					Other				
Last Day Worked: 2/13/2017		Date of Disability: 2/14/2017			Recap: The claimant is a 48 year old male				
Date of Hire: 10/2/2014		Insurance Effective Date: 11/1/2014			Driver's License Examiner who became disabled on 2/14/2017 due to cervical and lumbar back pain				
Occupation: Driver's License Examiner		Level Light			Assessment: <u>Plan</u> Medical: 3/6/17 C5-6 and C6-7 discectomy and arthroplasty (fusion_ also received injections. PT recommended and possible Sx. Order records at 9 mo for review of L&Rs and other Dx not related to his cervical/lumbar back Dx Vocational: ETE in file. Light Occ, Driver's License Examiner Offsets: SA-A, P1-X, Applying with Ailsup for SSDI- may consider a lump sum withdrawal of SCRS Limits: send 750A at 9 mo. and complete review of claim for L&Rs and Limited DX				
Rehab RTW Date:		FICA/Med Extended:							
Min Ben or 10% of		Benefit % 65.00% Flat Benefit							
LWOP/CLI Status									
Life Waiver of Premium		N/A			Plan				
Pension Benefits		Additional Benefits			Letter Mailed:				
☐ MAPB ☐ PB ☐ PCB ☐ ALB ☐ LSB ☐ CRCB ☐ RT ☐ ACB ☐ N/A ☐ HAB ☐ MEB ☐ N/A									
LTD Coverage Information									
Contract 2000		Yes		Group Policy Eff Date		9/1/1995			
Subrogation		No		Mandatory Rehabilitation		Yes			
Review Language		Non- ERISA		Contract Class:		01			
Own Occ Total Disability %		80.00%		Any Occ Total Disability%		65.00%			
Partial Disability %				Any Occ Partial Disability%					
Correspondence									
Repay Agreement Sent:		Received							
ETE Sent:		Received							
DED Income Ltr Sent:		Received							
LTD Benefits Periods									
Type	Period Begin	Period End	Warned	Applied					
Maximum Benefit: Age 65	5/15/2017	8/26/2034							
Own Occupation: 24M	5/15/2017	5/14/2019							
Limited Condition									
Limited Condition									
Limited Condition									
Deductible Income									
Type	Status	Amount	Ben From	Ben To	Specific Objectives:	Diary Posted?	Completed?		
SSA: Primary	E				Records to DMR to identify L&Rs and Dx	now			
SSA: Dependent					MEINRQ	now			
SCRS P1	X				auth	7/13/2018			
WC: Temporary					f/u auth	8/13/2018			
WC: Permanent									
ER Sick Leave	A				7700 w/ ACQ and Med Q for an update	8/25/2018			
ER: Sal. Cont.					new plan after DMR review	8/25/2018			
STD:									
Other: RO									
TPL/Subrogation									
Deduction & Payment Information									
Type	Rate%	Amount	Status	Allowance	Approver Comments  Sheena Raab 7/13/2018				
FIT									
SIT South Carolina	7.00%								
Basic ER Cont. % 100.00%									
COLA: Yes		Only Sup LTD 621144, eff 04/01, but not w/min benefit							
BCD Unit n/a		Tax/Admin		Div Code 01					
Premium Paid Through Date					Analyst				
Claim Accuracy					Date				

Claim and policy data on CLAIM OVERVIEW verified as accurate:

sr

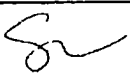
(Initial)

Approver

0152
Date

Employee Benefits

14 Month RTD File Review

Claimant: Jerry M. Arnette Jr.		LTD Claim No. 00FC6930	
14 Month RTD Process:		Type	OQ Status
☐ Conduct Claimant Interview		SD/SC	☒ YES ☐ NO ☐ N/A
☒ Conduct 14 month DMR Consult <i>→ need to DMR</i>		SL/SC/SB	☒ YES ☐ NO ☐ N/A
☒ Update Claim Management Plan <i>TS A only if needed</i>		WC	☐ YES ☐ NO ☐ N/A
☒ Plan is complete and current		PERS	☒ YES ☐ NO ☐ N/A
☒ Future Diary events entered		RO/WM	☐ YES ☐ NO ☐ N/A
☒ Indicate below any changes from prior RTD/MRD file reviews		SDI	☐ YES ☐ NO ☐ N/A
☐ If applicable, request Social Security File		Other	☐ YES ☐ NO ☐ N/A
☒ If OP, is plan in place with appropriate approval?		Additional Benefits	
☐ Overview Sheet reflects current information in ProClaim as well as documentation in claim file.		☐ N/A	☐ HAB/ALB ☒ LSB
		☐ MAPB/Pension	☐ YES ☐ NO
Appropriate to refer now to SSD vendor for assistance? ☒ Already referred		☐ YES	☐ NO
Analyst Comments:			
due to multiple rec. needing reiew by DMR for Lintled Dx and L&Rs, I will defer interivew until we get DMR to review file.			
Contractual Issues: Is Any Occupation diary event set?(700 letter, for example). Does limit apply and has claimant been notified? Additional Benefits addressed? Any other contractual issues to be addressed?			
7700 will be sent in August. New plan once file back from DMR. 750A was sent on 2/13/18			
Deductible Income: Has the status of any offsets changed? Check offset screen. Have appropriate diaries been scheduled for outstanding offset information?			
working with Alsup, hearing appeal submitted on 2/7/18. If approved, f/u on SCRS.			
LWOP Status: If claimant has returned to work, has LWOP team been notified? Has LWOP status changed? Is CLI flag correct in ProClaim? If LWOP claim denied, have appropriate letters been sent?			
n/a			
Approver Comments:			
Analyst: Sheena Raab 		Date: 7/13/2018	
Approver: _____		Date: _____	
*After completing review, an analyst has the authority to clear flags within authority level. Claims exceeding authority level require review by a peer or approver with appropriate authority level.			

Claimant/Contract information

ment to the claim

Management Plan

Claimant Name: Jerry M. Arnette Jr.					Outcome: Expected to Recover	
Authorized to correspond with:					Recover, if yes when	
LTD Claim No. 00FC6930		Supp Claim# 00FF3058			closure letter sent?	
Benefit Waiting Period:					Return to work(check one) ☒ Own Occ ☒ Any Occ	
Last Day Worked: 2/13/2017		Date of Disability: 2/14/2017			Other	
Date of Hire: 10/2/2014		Insurance Effective Date: 11/1/2014			Recap: The claimant is a 48 year old male	
Occupation: Driver's License Examiner		Level: Light			Driver's License Examiner who became disabled on 2/14/2017	
Rehab RTW Date:		FICA/Med Extendeded:			due to cervical and lumbar back pain	
Min Ben or 10% of		Benefit % 65.00% Flat Benefit			Assessment:	
LWOP/CLI Status					Plan	
Life Waiver of Premium		N/A			Medical: 3/6/17 C5-6 and C6-7 discectomy and arthroplasty (fusion, also received injections. PT recommended and possible Sx.	
Pension Benefits		Additional Benefits			Order records at 9 mo for review of L&Rs and other Dx not related to his cervical/lumbar back Dx	
☐ MAPB ☐ PB ☐ PCB		☐ ALB ☒ LSB			multiple Dx per HPRS - need review	
☐ CRCB ☐ RT ☐ ACB		☐ N/A ☐ HAB ☐ MEB ☐ N/A			Vocational: ETE in file. Light Occ, Driver's License Examiner	
LTD Coverage Information						
Contract 2000		Yes		Group Policy Eff Date		9/1/1995
Subrogation		No		Mandatory Rehabilitation		Yes
Review Language		Non- ERISA		Contract Class:		01
Own Occ Total Disability %		80.00%		Any Occ Total Disability%		65.00%
Partial Disability %				Any Occ Partial Disability%		
Correspondence						
Repay Agreement Sent:		Received				
ETE Sent:		Received				
DED Income Ltr Sent:		Received				
LTD Benefits Periods						
Type	Period Begin	Period End	Warned	Applied		
Maximum Benefit: Age 65	5/15/2017	8/26/2034				
Own Occupation: 24M	5/15/2017	5/14/2019				
Limited Condition						
Limited Condition						
Limited Condition						
Deductible Income						
Type	Status	Amount	Ben From	Ben To	Specific Objectives:	Diary Posted? Completed?
SSA: Primary	E				order medical for review/Limited review	W.O.
SSA: Dependent					records to DMR for review by	5/15/2018
SCRS P1	X				send 750B or send 700 letter at 14 months	7/15/2018
WC: Temporary					and complete clmt interview if non-limited dx	7/15/2018
WC: Permanent						
ER Sick Leave	A				auth	2/15/2018
ER: Sal. Cont.					f/u auth	3/15/2018
STD:						
Other: RO						
TPL/Subrogation						
Deduction & Payment Information						
Type	Rate%	Amount	Status	Allowance		
FIT				Approver Comments		
SIT South Carolina	7.00%					
Basic ER Cont. %100.00%	Supp ER: Cont%:					
COLA: Yes	Only Sup LTD 621144, eff 04/01, but not w/min benefit					
BCD Unit n/a	Tax/Admin		Div Code	01		
Premium Paid Through Date				Analyst		
Claim Accuracy				Date		

Claim and policy data on CLAIM OVERVIEW verified as accurate:

SR

(Initial)

Approver

0154

6 Month LTD 10/15/2017 6 Month MDR 02/15/2018

Employee Benefits

9 month MRD File Review

Claimant: Jerry M. Arnette Jr.

LTD Claim No. 00FC6930

CLAIM MANAGEMENT PLAN

DEDUCTIBLE INCOME

Plan is Complete and Current:	☒ Yes	Type SD/SC	OO Status	Applied	Request sent to SSA?	☐ Yes ☐ No ☒ Allsup
Future Diary Events entered:	☒ Yes	SL/SA/SB A	☒ Yes ☐ No ☐ N/A	Dependent DOB Verified?	☐ Yes ☐ No ☒ N/A	
Financial & Medical Issues addressed:	☒ Yes	WC	☐ Yes ☐ No ☒ N/A	Request to WC sent?	☐ Yes ☐ No ☒ N/A	
OP Plan approved & accurate:	☐ Yes ☒ N/A	PERS	☒ Yes ☐ No ☒ N/A	Request to PERS sent?	☐ Yes ☐ No ☒ N/A	
		ROWM	☐ Yes ☐ No ☒ N/A	Fica/Med addressed?	☒ Yes ☐ No ☐ N/A	
		SDI	☐ Yes ☐ No ☒ N/A	3rd Party Deductible Income?	☐ Yes ☐ No ☒ N/A	
Any Occupation Period:	☒ Addressed ☐ N/A	Other	☐ Yes ☐ No ☒ N/A	Subrogation?	☐ Yes ☒ N/A	
Limited Pay Periods:	☒ Addressed ☐ N/A			RTW?	☒ Own Occ ☒ Any Occ ☐ N/A	
	☐ MD ☐ SA ☐ OLC ☒ Warned ☐ Asserted					
Limitation Letters Scheduled:	☒ Yes ☐ N/A	CLI Flag Status?		Waiver notified of status update?	☐ Yes ☐ No ☒ N/A	
Additional Benefits:	☐ N/A ☐ HAB/ALB ☒ LSB	File sent to Waiver Team?	☐ Yes ☐ No ☒ N/A	Appropriate Letters sent?	☐ Yes ☐ No ☒ N/A	
MAPB/Pension Benefit/ACB:	☐ Yes ☒ N/A					

Appropriate to refer now to SSD vendor for assistance? ☒ Already referred ☐ Yes ☐ No

Claim Management Plan: Does Overview Sheet reflect current information in ProClaim as well as documentation in claim file? Does plan remain complete and current with future diary events in place? If OP, is plan in place with appropriate approval? Is medical information CMP is updated to order records for L&Rs and also for the Limit review of his conditions.

per HRS - multiple non-limited Dx - all need review of L&Rs and prognosis

Contractual Issues: Is Any Occupation diary event set?(700 letter, for example). Does limit apply and has claimant been notified? Additional Benefits addressed? Any other contractual issues to be addressed?

I have sent a 750A now. I will also plan a 700 at 5/15/18 to inform the claimant that we would also have to complete an AO review should he have any non-limited and disabling Dx. *file on any new docs.*

Deductible Income: Has the status of any offsets changed? Check offset screen. Have appropriate diaries been scheduled for outstanding offset information? Appropriate to refer now to SSD vendor for assistance?

Working with Allsup: "HEARING APPEAL SUBMITTED TO SSA ON 02-07-18." P1-X and may not have enough years of service to be vested in SCRS. SA-A.

LWOP Status: If claimant has returned to work, has LWOP team been notified? Has LWOP status changed? Is CLI flag correct in ProClaim? If LWOP claim denied, have appropriate letters been sent?

n/a

Approver Comments

Sheena Raab
Analyst

Date

2/13/2018

Approver

Date

2/15/18

*After completing review, an analyst has the authorization to clear flags within authority level.
Claims exceeding authority level require review by a peer or approver with appropriate authority level.

0155

Claimant/Contract information

Claimant Name: Jerry M. Arnette Jr.				
Authorized to correspond with:				
LTD Claim No. 00FC6930		Supp Claim# 00FF3058		
Benefit Waiting Period: 90 days				
Last Day Worked: 2/13/2017		Date of Disability: 2/14/2017		
Date of Hire: 10/2/2014		Insurance Effective Date: 11/1/2014		
Occupation: Driver's License Examiner		Level: Light		
Rehab RTW Date: FICA/Med Extended:				
Min Ben or 10% of		Benefit % 65.00% Flat Benefit		
LWOP/CLI Status				
Life Waiver of Premium		N/A Plan		
Pension Benefits		Additional Benefits		Letter Mailed:
☐ MAPB ☐ PB ☐ PCB ☐ ALB ☒ LSB ☐ CRCB ☐ RT ☐ ACB ☐ N/A ☐ HAB ☐ MEB ☐ N/A				
LTD Coverage Information				
Contract 2000		Yes		Group Policy Eff Date 9/1/1995
Subrogation		No		Mandatory Rehabilitation Yes
Review Language		Non- ERISA		Contract Class: 01
Own Occ Total Disability %		80.00%		Any Occ Total Disability% 65.00%
Partial Disability %		Any Occ Partial Disability%		
Correspondence				
Repay Agreement Sent:		Received		
ETE Sent:		Received		
DED Income Ltr Sent:		Received		
LTD Benefits Periods				
Type	Period Begin	Period End	Warned	Applied
Maximum Benefit: Age 65	5/15/2017	8/26/2034		
Own Occupation: 24M	5/15/2017	5/14/2019		
Limited Condition				
Limited Condition				
Limited Condition				
Deductible Income				
Type	Status	Amount	Ben From	Ben To
SSA: Primary	E			
SSA: Dependent				
SCRS P1	E			
WC: Temporary				
WC: Permanent				
ER Sick Leave				
ER: Sal. Cont.				
STD:				
Other: RO				
TPL/Subrogation				
Deduction & Payment Information				
Type	Rate%	Amount	Status	Allowance
FIT				
SIT South Carolina	7.00%			
Basic ER Cont. %100.00%				Supp ER: Cont%:
COLA: Yes				Only Sup LTD 621144, eff 04/01, but not w/min benefit
BCD Unit n/a				Tax/Admin Div Code 01
Premium Paid Through Date				
Claim Accuracy				

Management Plan

Claims Summary

Outcome: Expected to Recover
Recover, if yes when closure letter sent?
Return to work(check one) ☐ Own Occ ☒ Any Occ
Other
Recap: The claimant is a 47 year old male Driver's License Examiner who became disabled on 2/14/2017 due to cervical and lumbar back pain.

Assessment:

Plan

Medical: 3/6/17 underwent a C5-6 and C6-7 anterior cervical discectomy and arthroplasty (fusion) and lumbar facet nerve blocks on 4/20/17, 5/4/17 underwent RFA medial branch nerve at left L3-4, L4-5, and L5-S1 facet joints. May need a lumbar fusion. PT has been recommended. NCM reviewed the information and in the file opined that given the extent of the claimant's back conditions and pain symptoms that he has been precluded from more than occasional standing/walking from the CWD, present, and on-going. She recommend obtaining records in 3-4 months for follow and to determine if claimant underwent additional surgery or to clarify his L&Rs post-PT.

Vocational: Driver's License Examiner, Light RTW + Temp Recovery explained on approval call
Offsets: SL thru 5/15/17, monitor application to DI
he had considered lump sum with draw

Requested Atsup referral applied on m

Changed CA Score:	Initials:	Date:
Score updated in tool		Date:
Reason for change:		

Specific Objectives:	Diary Posted?	Completed?
OF DB RA- Req for Repayment Agreement	9/1/2017	
VO ET RS-ETE Request Letter	9/7/2017	
VO ET FS-FU ETE Ltr	10/7/2017	
Muscu Med Q & HPVS	11/15/2017	
f/u Med Q & HPVS	12/15/2017	
FS PL 90	1/15/2018	
9 mo MRD/750A, order record for review	2/15/2018	
OF SS FU	4/15/2018	
14 mo MRD, 700 letter or 750B	7/15/2018	
auth	6/1/2018	
f/u auth	7/1/2018	

Approver Comments

Sheena Raab

8/23/2017

Analyst

Date

Employee Benefits

5 month RTD File Review

Claimant: Jerry M. Arnette Jr.

LTD Claim No. 00FC6930

The signature below validates that this claim has an appropriate plan in place, if applicable. The medical information in the file supports the claimant remains disabled and claim payment data is complete and accurate.

	10/5/2017		
Analyst	Date	Approver	Date

Employee Benefits

9 Month MRD File Review

Claimant: Jerry M. Arnette Jr.

LTD Claim No. 00FC6930

CLAIM MANAGEMENT PLAN		Type	OO Status	Applied	DEDUCTIBLE INCOME
Plan Is Complete and Current:	☐ Yes	SD/SC	☐ Yes ☐ No ☐ N/A		Request sent to SSA? ☐ Yes ☐ No ☐ Allsup
Future Diary Events entered:	☐ Yes	SL/SA/SB	☐ Yes ☐ No ☐ N/A		Dependent DOB Verified? ☐ Yes ☐ No ☐ N/A
Financial & Medical Issues addressed:	☐ Yes	WC	☐ Yes ☐ No ☐ N/A		Request to WC sent? ☐ Yes ☐ No ☐ N/A
OP Plan approved & accurate:	☐ Yes ☐ N/A	PERS	☐ Yes ☐ No ☐ N/A		Request to PERS sent? ☐ Yes ☐ No ☐ N/A
		RO/WM	☐ Yes ☐ No ☐ N/A		Fica/Med addressed? ☐ Yes ☐ No ☐ N/A
Contractual Issues		SDI	☐ Yes ☐ No ☐ N/A		3rd Party Deductible Income? ☐ Yes ☐ No ☐ N/A
Any Occupation Period:	☐ Addressed ☐ N/A	Other	☐ Yes ☐ No ☐ N/A		Subrogation? ☐ Yes ☐ N/A
Limited Pay Periods:	☐ Addressed ☐ N/A				RTW? ☐ Own Occ ☐ Any Occ ☐ N/A
☐ MD ☐ SA ☐ OLC	☐ Warned ☐ Asserted				LIFE WAIVER OF PREMIUM
Limitation Letters Scheduled:	☐ Yes ☐ N/A	CLI Flag Status?			Waiver notified of status update? ☐ Yes ☐ No ☐ N/A
Additional Benefits:	☐ N/A ☐ HAB/ALB ☐ LSB	File sent to Waiver Team?	☐ Yes ☐ No ☐ N/A		Appropriate Letters sent? ☐ Yes ☐ No ☐ N/A
MAPB/Pension Benefit/ACB:	☐ Yes ☐ N/A				

Appropriate to refer now to SSD vendor for assistance? ☐ Already referred ☐ Yes ☐ No

Claim Management Plan: Does Overview Sheet reflect current information in ProClaim as well as documentation in claim file? Does plan remain complete and current with future diary events in place? If OP, is plan in place with appropriate approval? Is medical information

Contractual Issues: Is Any Occupation diary event set?(700 letter, for example). Does limit apply and has claimant been notified? Additional Benefits addressed? Any other contractual issues to be addressed?

Deductible Income: Has the status of any offsets changed? Check offset screen. Have appropriate diaries been scheduled for outstanding offset information? Appropriate to refer now to SSD vendor for assistance?

R 112

LWOP Status: If claimant has returned to work, has LWOP team been notified? Has LWOP status changed? Is CLI flag correct in ProClaim? If LWOP claim denied, have appropriate letters been sent?

0157

	10/5/2017		
Analyst	Date	Approver	Date

Employee Benefits

9 Month MRD File Review

Approver Comments

Analyst	Date	Approver	Date
<i>*After completing review, an analyst has the authorization to clear flags within authority level. Claims exceeding authority level require review by a peer or approver with appropriate authority level.</i>			

☐ Limited Condition☐ LWOP☐ Ancillary Claim

New Claim Decision

CLAIMANT OVERVIEW

Claimant's Name	Jerry M. Arnette Jr.	Hire Date	10/2/2014
Claim Number	00FC6930 00FF3058	Last Day of Work	2/13/2017
Date of Disability	2/14/2017	Insurance Effective Date	11/1/2014
DOB		Age Now	47
		Age At Disability	47
Medical Condition(s)	cervical and lumbar back pain		

BENEFITS COVERAGE & POLICY INFORMATION

Performance Guarantee	Yes	If Contributory Enrollment	Enrollment Card
Number of hours worked per week	40.00	Meets the Member Definition	Yes
Premium Contribution	Claimant pays with post-tax dollars/non-contributory	Taxability Calc	n/a
Taxability %	100.00%	Proclaim Class Code	01
ERISA	Non-ERISA	BCD Unit	n/a
BWP	90 days	BWP OP	90 days
1st Day Hospitalization	N/A	select one	Admit Date
Preex Investigation Needed?	No	EOI Required?	No
	Rescission Investigation required? No		
Preex Investigation not required because:			

VOCATIONAL INFORMATION

Strength Level	Light	Own Occupation	Driver's License Examiner
requires significant standing/walking			

MEDICAL INFORMATION/EXPECTED DURATION OF IMPAIRMENT:

3/6/17 underwent a C5-6 and C6-7 anterior cervical discectomy and arthroplasty (fusion) and lumbar facet nerve blocks on 4/20/17, 5/4/17 underwent RFA medial branch nerve at left L3-4, L4-5, and L5-S1 facet joints. May need a lumbar fusion. PT has been recommended. NCM reviewed the information and in the file opined that given the extent of the claimant's back conditions and pain symptoms that he has been precluded from more than occasional standing/walking from the CWD, present, and on-going. She recommend obtaining records in 3-4 months for follow and to determine if claimant underwent additional surgery or to clarify his L&Rs post-PT.

LTD BENEFIT AMOUNT

LTD Benefit %	65.00% Flat Amount
LTD Coverage requested exceeds Maximum Benefit amount allowed:	select one
DEDUCTIBLE INCOME	1 source of DI
Sick/Sal Cont.	memo line:
Time Period Received:	5/15/2017 to 5/15/2017 Amount: \$2,524.58

CLAIM DECISION

☒ Approval ☐ Denial

I find it reasonable that he claimant was precluded from significant standing and walking as of his CWD per ER of 2/13/17, present, and on-going. I will order medical records to monitor his recovery. I will also review for Limited Conditions in a few months, once he's closer to MMI.

LT1	LT2	PB	OP
☒	☐	☐	☒ Predisability Earnings Calculation (worksheet completed in file)
☒	☐	☐	☒ Claim Screen ☒ Div Code
☐	☐	☐	☐ Overrides ☒ N/A
☒	☐	☐	☒ Checked BDOX

R 114**0159**☐ N/A

- ☐ ☐ 5 mo RTD ☐ 9 mo MRD ☐ 14 mo RTD ☐ 18 mo MRD (requires approver signature below)
- ☐ Life Waiver of Premium decision rendered or included in CMP if pending. (requires referral to Waiver team if approved or pending)
- ☒ Member Screen ☒ Admin Unit ☒ Tax Unit ☐ BCD Unit
- ☐ DOB Youngest Child: ☒ Confirm no eligible dependents and/or NA as not deductible per contract
- ☒ Offsets (validated)
- ☒ 3650 Requested (ASO)
- ☒ Claim Management Plan complete and Diary Events added

SIGN & DATE	
Claim Overview Information Accurate: Yes	Diary Events Entered Yes
Proof of Loss Date 8/16/2017	MRD/RTD documented & cleared N/A
Sheena Raab	External Information: Medical records from Dr.
Signature	8/23/2017
	Date
Approver Comments	
Approver	Date

Pending Plan

Claimant/Contract information pertinent to claim

Claimant Name: Jerry M. Arnette Jr.
 Authorized to correspond with:
 TD Claim No. 00FC6930 Supp Claim# 00FF3058
 Benefit Waiting Period:
 Last Day Worked: 2/13/2017 Date of Disability: 2/14/2017
 Date of Hire: 10/2/2014 Insurance Effective Date 11/1/2014
 Occupation: Driver's License Examiner Level Light
 Rehab RTW Date: FICA/Med Extended:
 Min Ben or 10% of Benefit % 65.00% Flat Benefit

WOP/CLI Status

LI Flag in ProClaim N/A Plan

Pension Benefits Additional Benefits Letter Mailed:
☐ MAPB ☐ PB ☐ PCB ☐ ALB ☒ LSB
☐ CRCB ☐ RT ☐ ACB ☒ N/A ☐ HAB ☐ MEB ☐ N/A

LTD Coverage Information
 Contract 2000 Yes Group Policy Eff Date 9/1/1995
 Subrogation No Mandatory Rehabilitation Yes
 Review Language Non- ERISA Contract Class: 01
 Own Occ Total Disability % 80.00% Any Occ Total Disability % 65.00%
 Partial Disability % Any Occ Partial Disability%

LTD Benefits Periods

Type	Period Begin	Period End	Warned	Applied
Maximum Benefit:	Age 65			
Own Occupation:	24M			
Limited Condition				
Limited Condition				
Limited Condition				

Deductible Income

Type	Status	Amount	Ben From	Ben To
ISA: Primary				
ISA: Dependent				
ICRS: P1				
VC: Temporary				
VC: Permanent				
ER: Sick Leave				
ER: Sal. Cont.				
STD:				
Other:				
PL/Subrogation				

Deduction & Payment Information

Type	Rate%	Amount	Status	Allowance
FT				
SIT	South Carolina	7.00%		
Basic ER Cont. %:	100.00%	Supp ER: Cont %		0.00%
COLA:	Yes	Only Sup LTD 621144, eff 04/01, but not w/min benefit		
BCD Unit	n/a	Tax/Admin	Div Code	01
Premium Paid Through Date				

Correspondence

Type	Sent	Received
Deductible Income Ltr		
Repayment Agreement		
ETE Form		

Claim Accuracy
 Claim and policy data on CLAIM OVERVIEW verified as accurate: SR

Claims Summary

The reason the claim is pending is:

LDW was 2/13/17 but SX was on 2/8/17
 3-6-17
 "two level arthroplasty" on cervical spine
 records indicate that he may be a candidate for a lumbar fusion as well
 Own Occ is Light
 NCM recommended f/u with records requests as Own Occ is Light and claimant reported relieve post-sx; however we are unsure if he'll be scheduled for lumbar fusion or if he is capable of performing Own Occ. Medical info in file only through early May 2017.
 SL thru 5/15/17

Evidence of Insurability/Rescission
 Date of Hire: 11/1/2014 Supp Ins Eff Date: within 31 day of hire
 Rescission Review/Investigation Needed No

Preexisting Condition Review
 Ins. Eff Date: 11/1/2014 Exclusionary Period 12mnts
 PreEx Period 6months From 5/1/2014 To 10/31/2014
 PreEx Investigation Required? No
 Prudent Person Language? No

Information Needed to make Decision

Source	Requested	Follow-up	Received
Dr. Highsmith			☐
Dr. Richard Blake Kline			☐
			☐
			☐
			☐

Pending Claim Review Requirements

Assigned	8/3/2017	Date of Decision to Pend	8/9/2017
45d ltr Date:	9/16/2017	Date Tolled:	Date Untolled
75d ltr Date:	10/16/2017	Date Tolled:	Date Untolled
105d ltr Date:	11/15/2017	Date Tolled:	

Approver Comments

(Initial)

R 116

Sheena Raab

8/9/2017

Analyst

Date

0161



TheStandard®

CLAIMS ADMINISTRATOR
for the State of South Carolina
Long Term Disability Plan

March 31, 2020

Ms. M. Leila Louzri
Foster Law Firm LLC
25 Mills Ave
Greenville SC 29605

Re: Jerry M. Arnette, Jr.
State of South Carolina
Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

As Claims Administrator for the State of South Carolina's Long Term Disability (LTD) Plan, the Administrative Review Unit of Standard Insurance Company (The Standard) has completed our review of the decision to limit and close the LTD claim of your client, Jerry M. Arnette, Jr. This review was conducted separately from the individuals who reached the initial claim decision.

After considering all the information contained in his file, we find the decision to limit your client's LTD claim to 24 months of benefits under the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation of the State of South Carolina LTD Plan with regard to his Disability caused and/or contributed to by his degenerative disc disease and osteoarthritis is correct. Therefore, no additional LTD benefits are payable for either of those conditions, or any other conditions falling within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions, after May 14, 2019.

However, we also find Mr. Arnette has limitations and/or restrictions from working after that date due to his additional diagnosis of lumbar radiculopathy with neurological abnormalities, which is a condition specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions under the Disabilities Subject To Limited Pay Periods provision of that same LTD Plan. As such, your client's file will be returned to Life & Disability Services for additional evaluation to determine his eligibility, if any, for additional benefits after May 14, 2019, due to that non-Limited condition, under the Definition of Disability that was applicable to his claim at that time. The following is an explanation of our findings.

First, please recall, the State of South Carolina LTD Plan asserts that payment of benefits is limited to 24 months, during a Member's entire lifetime, for any Disability caused or contributed to by Chronic Pain, Musculoskeletal And Connective Tissue Conditions including, but not

limited to, any disease or disorder of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, sprains or strains of joints of muscles, and arthritis (other than rheumatoid or psoriatic arthritis). A copy of that provision is enclosed for your reference.

Following an initial claim investigation, Mr. Arnette's claim was approved based primarily on his cervical spine (neck) and lumbar (lower back) conditions, and the surgery he underwent for his neck in early March of 2017. That meant that, after his 90-day Benefit Waiting Period, LTD benefits became payable to your client as of May 15, 2017. However, it was later determined the medical information in his file supported his Disability was caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions as defined under the Disabilities Subject To Limited Pay Periods provision of the State of South Carolina LTD Plan.

In that regard, Mr. Arnette's LTD claim was closed as of May 14, 2019, as it was determined that the information in his file did not support ongoing impairment from performing his Own Occupation of Driver's License Examiner due to one or more medical conditions that would not have been subject to the same 24-month Limited Pay Period. Our review finds that your client was notified of the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation being applied to his LTD claim in a letter dated May 16, 2019, from Senior Disability Benefits Analyst Simi Hedberg (copy enclosed).

Subsequently, in a letter dated October 18, 2019, you requested a review of the decision to limit Mr. Arnette's claim under the above noted provision, and close it as of May 14, 2019. However, you indicated you would supply additional medical information that you wanted included in our review, the last of which was received on January 21, 2020. In that regard, that was the day we began our review of the decision to limit and close Mr. Arnette's LTD claim.

As such, the focus of our review was to determine if the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation under the Disabilities Subject To Limited Pay Periods provision of the State of South Carolina LTD Plan was appropriately applied to Mr. Arnette's LTD claim and, if so, if his claim should have been closed as of May 14, 2019.

During our review, we found the medical information available in your client's file at present includes documents and records received from the offices of Dr. Timothy Fitzgibbon (Family Medicine), Dr. Jason M. Highsmith (Neurosurgeon), Dr. Edward M. Tavel (Pain Medicine), Dr. Richard Klein (Pain Medicine), Dr. Neil Griffin (Ophthalmology), Dr. Mohamed Zein (Pulmonology), Dr. Shawn P. McKay (Otolaryngology), Dr. John W. French (Ophthalmology), Dr. Edwin Blitch IV (Podiatry), Dr. Deepak Chowdhary (Gastroenterology), Dr. Venugopal Govindappa (Nephrology), Dr. Richard M. Silver (Rheumatology), Dr. Anil Om (Cardiology), and Dr. Richard D. Guyer (Orthopedic Surgery).

Based on our review, we found that, in addition to his medical conditions of degenerative disc disease and osteoarthritis, Mr. Arnette had several other diagnoses for which he sought and/or continues to seek medical care and treatment, including but not limited to COPD, hypertension,

gout, hyperlipidemia, asthma, chest pain with heart rhythm concerns, sleep apnea, chronic kidney disease, cataracts and hallux rigidus. We then had Mr. Arnette's file reviewed by an Independent Peer Review (IPR) Physician who is board-certified in Internal Medicine (IM), and an IPR Physician who is board-certified in Physical Medicine & Rehabilitation (PM&R).

Following his review, the IM Physician noted that, other than his spinal conditions, the available records support Mr. Arnette has the other, above noted, diagnoses, as well as sinusitis and testosterone deficiency that is stable on supplementation. Of note is that hallux rigidus is also a form of osteoarthritis. However, after reviewing the available records, the IM Physician provided his medical opinion that the documentation does not support limitations and/or restrictions that would result in any impairment from working due to those conditions. He noted those conditions were all documented as being stable on medical treatment and/or were not documented as causing secondary IM associated issues that would impact your client's functionality.

Similarly, the PM&R Physician noted that the available records support diagnoses of axial neck, mid and low back pain secondary to cervical disc disruption at the C4-5 disc level, status post two-level fusion, and lumbar disc disruption at the L3-S1 disc levels, status post L5 posterior decompression. He provided his medical opinion that those diagnoses fall within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions in that they are diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue.

Conversely, the PM&R Physician also noted the available medical records support radiculopathy confirmed by EMG on March 12, 2018, as well as "evident neurological abnormalities". As those diagnoses are specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions, we find the PM&R Physician further noted that, based solely on Mr. Arnette's lumbar radiculopathy with neurologic abnormalities, he would have limitations and/or restrictions continuing after May 14, 2019, through the present. He provided his medical opinion that those would include, but not be limited to, a limitation of standing or walking in intervals of up to 15 minutes at a time, for a total of one hour each per workday.

Based on the medical records and other documentation available in Mr. Arnette's file at present, our review finds that the medical opinions provided by the IPR Physicians are well reasoned and supported by the clinical findings documented by his own treating providers. As such, we do not find documentation in your client's file at present that supports he would have any limitations and/or restrictions from performing work activities on a full-time, reasonably continuous basis as of and continuing after May 15, 2019, due to his IM conditions when the limitations and/or restrictions caused by his Chronic Pain, Musculoskeletal And Connective Tissue Conditions are not taken into consideration.

In summary, we considered all the information available to us and found the decision to apply the lifetime, 24-month Limited Pay Period to Mr. Arnette's LTD claim with regard to his inability to work, and thus his Disability, caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions is correct. That finding is based on the fact that his initially

impairing medical conditions of neck and lower back pain were found to have been related to cervical and lumbar disc disruptions, and degenerative disc disease, which are diseases or disorders of the cervical, thoracic, and lumbar back and its surrounding soft tissue.

However, we also found the medical information supports the diagnosis of lumbar radiculopathy with neurologic abnormalities, which is a condition that is specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions. Therefore, additional analysis is needed to determine if Mr. Arnette meets the Definition of Disability applicable to his LTD claim due to that condition as of and continuing after May 15, 2019.

Please recall, the Definition of Disability of the State of South Carolina's LTD Plan changes after 24 months of benefits having been paid. Specific to Mr. Arnette's claim, the Definition of Disability changed as of May 15, 2019. Therefore, in order to be eligible for benefits as of and continuing after that date, your client would have needed to have been Disabled from Any Occupation at that time. Mr. Arnette was previously notified of the Definition of Disability provision in a letter dated September 19, 2018, from Disability Claim Assistant Kailee Recor (copy enclosed).

Since a determination regarding that Definition has not yet occurred for your client's claim, we are returning his file to Life & Disability Services to conduct an additional investigation to determine if Mr. Arnette meets the Any Occupation Definition of Disability after May 14, 2019.

In conclusion, the decision to limit Mr. Arnette's LTD claim to 24-months of benefits due to his Disability being caused by one or more Chronic Pain, Musculoskeletal And Connective Tissue Conditions has been upheld for the reasons outlined above. While we understand your client may still be disappointed with this decision, please assure him that our review was conducted fairly and objectively, taking into consideration all of the information currently available to us and the LTD Plan provisions applicable to his claim.

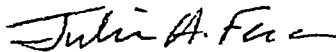
However, we also find the decision to close Mr. Arnette's claim due to the determination that ongoing impairment due to one or more medical conditions that would not have been subject to the same 24-month Limited Pay Period needs further evaluation, based on our finding that the available medical information supports a diagnosis of lumbar radiculopathy with neurologic abnormalities, which is a condition that is specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Conditions. In that regard, your client's file is being returned to Life & Disability Services for additional investigation of that closure decision.

If it is determined that the medical and vocational information in Mr. Arnette's LTD claim file does not support that he met the Any Occupation Definition of Disability, his claim may remain closed as of May 14, 2019. You will be notified of their determination in writing immediately upon completion of that additional claim investigation. If that occurs, Mr. Arnette would be given information regarding his right to request a review of that decision at that time.

We must also advise you that, upon further investigation, other valid reasons for limiting, denying and/or closing Mr. Arnette's LTD claim, which have not been previously considered, could come to our attention. Therefore, both the State of South Carolina and The Standard reserve the right to consider and/or assert other valid reasons for limitation, denial or closure of his LTD claim should they occur in the future.

As the Administrative Review Unit's review of Mr. Arnette's LTD claim is now complete, his file has been returned to Life & Disability Services. If you or your client have any questions regarding the additional investigation of his LTD claim, please feel free to contact them directly at (800) 368-1135.

Sincerely,



Julie A. Fera, FLMI, ACS
Benefits Review Specialist
Administrative Review Unit
(800) 628-9696, Ext. 8621

Enclosures

COVERAGE FEATURES

DISABILITY PROVISIONS

Own Occupation Period:	The Benefit Waiting Period and the first 24 months of Disability.
Any Occupation Period:	From the end of the Own Occupation Period to the end of the Maximum Benefit Period.
Partial Disability:	Covered
Own Occupation Income Level:	80% of your Indexed Predisability Earnings
Any Occupation Income Level:	65% of your Indexed Predisability Earnings
Benefit Waiting Period:	90 days

DEFINITION OF DISABILITY

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

A. Own Occupation Definition Of Disability

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled only from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of your Own Occupation.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as your regular and ordinary employment with the Employer. Your Own Occupation is not limited to your job with your Employer.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license, or because you suffer a loss of Predisability Earnings as a result of disclosure of any Physical Disease, Injury, Pregnancy or Mental Disorder.

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

C. Partial Disability Definition

1. During the Benefit Waiting Period and the Own Occupation Period, you are Partially Disabled when you work in your Own Occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Own Occupation Income Level.
2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Any Occupation Income Level in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See **Return To Work Incentive** and **Deductible Income**.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the **Coverage Features**.

LTDD.01

DEFINITIONS

Benefit Waiting Period means the period you must be continuously Disabled before LTD Benefits become payable. No LTD Benefits are payable for the Benefit Waiting Period. See **Coverage Features**.

COVERAGE FEATURES

DISABILITY PROVISIONS

Own Occupation Period:	The first 24 months for which LTD Benefits are paid.
Any Occupation Period:	From the end of the Own Occupation Period to the end of the Maximum Benefit Period.
Partial Disability:	Covered
Own Occupation Income Level:	80% of your Indexed Predisability Earnings.
Any Occupation Income Level:	65% of your Indexed Predisability Earnings.
See Definition of Disability for more information.	
Benefit Waiting Period:	Plan 1: 90 days
	Plan 2: 180 days

DEFINITION OF DISABILITY

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

A. Own Occupation Definition Of Disability

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled only from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of your Own Occupation.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as your regular and ordinary employment with the Employer. Your Own Occupation is not limited to your job with your Employer.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license, or because you suffer a loss of Predisability Earnings as a result of disclosure of any Physical Disease, Injury, Pregnancy or Mental Disorder.

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

C. Partial Disability Definition

1. During the Benefit Waiting Period and the Own Occupation Period, you are Partially Disabled when you work in your Own Occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Own Occupation Income Level.
2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Any Occupation Income Level in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See **Return To Work Incentive and Deductible Income**.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the **Coverage Features**.

LTD.D.01

DEFINITIONS

Benefit Waiting Period means the period you must be continuously Disabled before LTD Benefits become payable. No LTD Benefits are payable for the Benefit Waiting Period. See **Coverage Features**.

DISABILITIES SUBJECT TO LIMITED PAY PERIODS

A. Limitation

No LTD Benefits are payable after you have been Disabled for 24 months during your entire lifetime (exclusive of any Benefit Waiting Periods), if your Disability is caused or contributed to by the following, or medical or surgical treatment of the following:

1. Mental Disorders. However, if you are confined in a Hospital solely because of a Mental Disorder at the end of the 24 months, this limitation will not apply while you are continuously confined. Mental Disorder means any mental, emotional, behavioral, psychological, personality, cognitive, mood or stress-related abnormality, disorder, disturbance, dysfunction or syndrome, regardless of cause (including any biological or biochemical disorder or imbalance of the brain) or the presence of physical symptoms. Mental Disorder includes, but is not limited to, bipolar affective disorder, organic brain syndrome, schizophrenia, psychotic illness, manic depressive illness, depression and depressive disorders, anxiety and anxiety disorders.
2. Substance Abuse. Substance Abuse means use of alcohol, alcoholism, use of any drug, including hallucinogens, or drug addiction.
3. Chronic Fatigue Conditions. Chronic Fatigue Conditions means conditions such as chronic fatigue syndrome, chronic fatigue immunodeficiency syndrome, post viral syndrome, limbic encephalopathy, Epstein-Barr virus infection, herpesvirus type 6 infection, or myalgic encephalomyelitis.
4. Chemical And Environmental Sensitivities. Chemical And Environmental Sensitivities means any allergy or sensitivity to chemicals or the environment such as environmental allergies, sick building syndrome, multiple chemical sensitivity syndrome or chronic toxic encephalopathy.
5. Chronic Pain, Musculoskeletal And Connective Tissue Conditions. Chronic Pain, Musculoskeletal And Connective Tissue Conditions means conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

However, Disabilities as a result of the following conditions are not limited: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or psoriatic arthritis, herniated discs with neurological abnormalities that are documented by electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, discitis, Paget's disease.

B. Rules For Disabilities Subject To Limited Pay Periods

1. The 24 month limited pay period applies separately to items 1 through 5 above.
2. If you are Disabled as a result of more than one Mental Disorder, Physical Disease or Injury for which LTD Benefits are payable for a limited period of time, the limited pay periods will run concurrently for all limited conditions.
3. If you are Disabled as a result of a Mental Disorder or any Physical Disease or Injury for which payment of LTD Benefits is subject to a limited pay period, and at the same time are Disabled as a result of a Physical Disease, Injury, or Pregnancy that is not subject to such limitation, LTD Benefits will be payable first for conditions that are subject to the limitation.
4. No LTD Benefits will be payable after the end of a limited pay period, unless on that date you continue to be Disabled as a result of a limited condition for which the limited pay period has not ended or as a result of a Physical Disease, Injury, or Pregnancy for which payment of LTD Benefits is not limited, and you are otherwise eligible for LTD Benefits.

LIMITATIONS

A. Care Of A Physician

You may select the Physician of your choice. However, you must be receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty during the Benefit Waiting Period. No LTD Benefits will be paid for any period of Disability when you are not receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty. We will determine the appropriateness of the care and treatment you are receiving and of the Physician treating you according to generally accepted medical standards.

B. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period of Disability when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period, no LTD Benefits will be paid for any period of Disability when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but elect not to work.

C. Rehabilitation Program

No LTD Benefits will be paid for any period of Disability when you are not participating in good faith in a plan, program or course of medical treatment or vocational training or education approved by us unless your Disability prevents you from participating.

D. Imprisonment

No LTD Benefits will be paid for any period of Disability when you are confined for any reason in a penal or correctional institution.

LT.LM.OT.1

DISABILITIES SUBJECT TO LIMITED PAY PERIODS

A. Limitation

No LTD Benefits are payable after you have been Disabled for 24 months during your entire lifetime (exclusive of any Benefit Waiting Periods), if your Disability is caused or contributed to by the following, or medical or surgical treatment of the following:

1. **Mental Disorders.** However, if you are confined in a Hospital solely because of a Mental Disorder at the end of the 24 months, this limitation will not apply while you are continuously confined. Mental Disorder means any mental, emotional, behavioral, psychological, personality, cognitive, mood or stress-related abnormality, disorder, disturbance, dysfunction or syndrome, regardless of cause (including any biological or biochemical disorder or imbalance of the brain) or the presence of physical symptoms. Mental Disorder includes, but is not limited to, bipolar affective disorder; organic brain syndrome, schizophrenia, psychotic illness, manic depressive illness, depression and depressive disorders, anxiety and anxiety disorders.
2. **Substance Abuse.** Substance Abuse means use of alcohol, alcoholism, use of any drug, including hallucinogens, or drug addiction.
3. **Chronic Fatigue Conditions.** Chronic Fatigue Conditions means conditions such as chronic fatigue syndrome, chronic fatigue immunodeficiency syndrome, post viral syndrome, limbic encephalopathy, Epstein-Barr virus infection, herpesvirus type 6 infection, or myalgic encephalomyelitis.
4. **Chemical And Environmental Sensitivities.** Chemical And Environmental Sensitivities means any allergy or sensitivity to chemicals or the environment such as environmental allergies, sick building syndrome, multiple chemical sensitivity syndrome or chronic toxic encephalopathy.
5. **Chronic Pain, Musculoskeletal And Connective Tissue Conditions.** Chronic Pain, Musculoskeletal And Connective Tissue Conditions means conditions such as fibromyalgia, reflex sympathetic dystrophy or myofascial pain, carpal tunnel or repetitive motion syndrome, temporomandibular joint disorder, craniomandibular joint disorder, arthritis, diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue, and sprains or strains of joints or muscles.

However, Disabilities as a result of the following conditions are not limited: neoplastic diseases, neurologic diseases, endocrine diseases, hematologic diseases, asthma, allergy-induced reactive lung disease, tumors, malignancies, or vascular malformations, demyelinating diseases, lupus, rheumatoid or psoriatic arthritis, herniated discs with neurological abnormalities that are documented by electromyogram and computerized tomography or magnetic resonance imaging, scoliosis, radiculopathies that are documented by electromyogram, spondylolisthesis, grade II or higher, myelopathies and myelitis, traumatic spinal cord necrosis, osteoporosis, discitis, Paget's disease.

B. Rules For Disabilities Subject To Limited Pay Periods

1. The 24 month limited pay period applies separately to items 1 through 5 above.
2. If you are Disabled as a result of more than one Mental Disorder, Physical Disease or Injury for which LTD Benefits are payable for a limited period of time, the limited pay periods will run concurrently for all limited conditions.
3. If you are Disabled as a result of a Mental Disorder or any Physical Disease or Injury for which payment of LTD Benefits is subject to a limited pay period, and at the same time are Disabled as a result of a Physical Disease, Injury, or Pregnancy that is not subject to such limitation, LTD Benefits will be payable first for conditions that are subject to the limitation.
4. No LTD Benefits will be payable after the end of a limited pay period, unless on that date you continue to be Disabled as a result of a limited condition for which the limited pay period has not ended or as a result of a Physical Disease, Injury, or Pregnancy for which payment of LTD Benefits is not limited, and you are otherwise eligible for LTD Benefits.

LIMITATIONS

A. Care Of A Physician

You may select the Physician of your choice. However, you must be receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty during the Benefit Waiting Period. No LTD Benefits will be paid for any period of Disability when you are not receiving ongoing appropriate care and treatment from a Physician in the appropriate specialty. We will determine the appropriateness of the care and treatment you are receiving and of the Physician treating you according to generally accepted medical standards.

B. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period of Disability when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period, no LTD Benefits will be paid for any period of Disability when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but elect not to work.

C. Rehabilitation Program

No LTD Benefits will be paid for any period of Disability when you are not participating in good faith in a plan, program or course of medical treatment or vocational training or education approved by us unless your Disability prevents you from participating.

D. Imprisonment

No LTD Benefits will be paid for any period of Disability when you are confined for any reason in a penal or correctional institution.

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LT.PO.01



September 19, 2018

Administrative Consultants
for State of South Carolina

JERRY M ARNETTE JR.
555 PEARLIE RD
DILLON, SC 29536

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Mr. Arnette:

We are writing in regard to your Long Term Disability (LTD) claim with Standard Insurance Company (The Standard), Claims Administrator for the State of South Carolina LTD Plan.

We feel it is important that you understand the LTD Plan's Definition of Disability and how the change in this definition will affect your LTD claim for benefits. To be eligible for benefits, you must be Disabled as defined by the LTD Plan.

During the first 24 months of Disability following the 90-day waiting period on your Basic and Supplemental claims, you are eligible for benefits if you are Disabled from performing the Material Duties of your Own Occupation of Drivers License Examiner. This is referred to as the Own Occupation Definition of Disability.

To be eligible for benefits after 24 months, you must be Disabled from all occupations for which you are qualified by reason of education, training and experience. In other words, you must be unable to perform any gainful occupation as a result of your Disability. This is referred to as the Any Occupation Definition of Disability.

The LTD Plan defines Disability as follows:

Definition Of Disability

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

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COPY**A. Own Occupation Definition of Disability**

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of your Own Occupation.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as your regular and ordinary employment with the Employer. Your Own Occupation is not limited to your job with your Employer.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license, or because you suffer a loss of Predisability Earnings as a result of disclosure of any Physical Disease, Injury, Pregnancy or Mental Disorder.

B. Any Occupation Definition of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

C. Partial Disability Definition

1. During the Benefit Waiting Period and the Own Occupation Period, you are Partially Disabled when you work in your Own Occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Own Occupation Income Level.

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2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Any Occupation Income Level in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See **Return To Work Incentive and Deductible Income**.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the **Coverage Features**.

Under your Basic and Supplemental LTD claims, you became Disabled on February 14, 2017 and became entitled to benefits on May 15, 2017. Therefore, your first 24 months of Disability following the 90-day waiting period will end on May 14, 2019.

We are reviewing your claim for benefits because of the change in the Definition of Disability. To determine if you remain eligible for continued benefits, we will evaluate your ability to perform another occupation beginning May 15, 2019. Our review will analyze the medical and vocational information available to us, and will consider, among other things:

- your medical condition and how it may limit your ability to work on a regular basis;
- the skills and knowledge you gained from your education and past work experience;
- your prior occupations; and
- jobs you can perform based on your vocational and physical abilities.

If you have any medical or vocational information which you would like us to consider in making our decision, please let us know.

In summary, in order to receive benefits after May 14, 2019, you must be Disabled from all occupations for which you have the education, training and experience. If you meet this Definition of Disability and all other provisions of the LTD Plan, you may receive benefits through the Maximum Benefit Period, to age 65, August 26, 2034.

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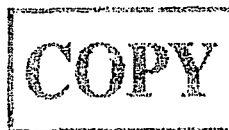
If you have any questions about this letter or your claim, please write or call me.

Sincerely,

Kailee Recor

Kailee Recor
Disability Claim Asst I
800-628-9696 ext.

R 141



The Standard®
Positively different.

May 16, 2019

Administrative Consultants
for State of South Carolina

JERRY M ARNETTE JR
555 PEARLIE RD
DILLON, SC 29536

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Mr. Arnette:

We are writing in regard to your Long Term Disability (LTD) claim with Standard Insurance Company (The Standard), Claims Administrator for the State of South Carolina LTD Plan.

As we explained in our letter of February 13, 2018, the State of South Carolina LTD Plan limits the benefit period to a maximum of 24 months during your entire lifetime for conditions caused or contributed to by Chronic Pain, Musculoskeletal And Connective Tissue Conditions, or the medical or surgical treatment thereof. We have enclosed a copy of our letter that explains this Limitation.

The information in your file confirms that you have been Disabled by degenerative disc disease and osteoarthritis. Because degenerative disc disease and osteoarthritis are Chronic Pain, Musculoskeletal And Connective Tissue Conditions as defined by the terms of the State of South Carolina LTD Plan, The Standard has applied the Chronic Pain, Musculoskeletal And Connective Tissue Conditions Limitation to your claim.

LTD Benefits first became effective for Chronic Pain, Musculoskeletal And Connective Tissue Conditions on May 15, 2017. Therefore, the 24-month Maximum Benefit Period for these conditions will end on May 14, 2019.

In noting your degenerative disc disease under the Chronic Pain, Musculoskeletal and Connective Tissue Conditions Limitations as defined, these conditions are considered to be diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding tissue. A Physician Consultant reviewed your electromyogram (EMG) results, which showed normal motor and sensory nerve conduction. A magnetic resonance imaging (MRI) showed small disc protrusions and stenosis. The Physician Consultant did not find herniated discs or radiculopathy that would correlate with your numbness.

In noting your treatment in the past for bilateral foot pain and diagnoses of hallux rigidus, tenosynovitis, synovitis and osteoarthritis; your foot conditions most notably fall under the

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category of osteoarthritis/arthritis. Arthritis is a specifically listed condition under the Chronic Pain, Musculoskeletal, and Connective Tissue Conditions Limitations as defined above.

We are aware of your other conditions, including fatigue, muscle aching, cataracts, asthma, chronic kidney disease, chest pain, and abdominal pain. After a thorough review of all medical records available, the Physician Consultant did not find these conditions warranted any specific physical limitations and restrictions. Regarding your sleep apnea, it would be reasonable to avoid working with heavy machinery or at heights. This would not exceed the requirements of your Own Occupation.

The following is an explanation of your right to a review of our decision:

If you want us to review your claim and this decision, you must send us a written request within six months after you receive this letter. If you request a review, you will have the right to submit additional information in connection with your claim. **Additional information you may wish to submit would include medical information documenting that you continue to be Disabled due to a non-Limited Condition.** Please include any such new information along with your request for review.

If you request a review, it will be conducted by an individual who was not involved in the original decision. If necessary, the person conducting the review will consult with a medical professional with regard to your claim. The medical professional will be someone who was not previously consulted in connection with your claim. The review would be completed within 45 days after we receive your request unless circumstances beyond our control require an extension of an additional 45 days.

We want to let you know that upon further investigation, other valid reasons for limiting or denying your claim for benefits, which have not been previously considered, could come to our attention. Therefore, The Standard reserves the right to consider and assert other reasons for limitation or denial of your claim should they occur in the future.

Please consult your certificate or Insurance Benefits Guide for a description of your rights under the terms of the State of South Carolina LTD Plan.

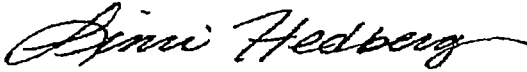
R 143

May 16, 2019

COPY

If you have any questions about this letter ~~or your claim~~, please write or call me.

Sincerely,



Simi Hedberg
Sr Disability Benefits Analyst
800-628-9696 ext. 7872

Enclosure: Correspondence - 02/13/2018

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0181

Julie Fera Francis

From: Jordan Carey
Sent: Tuesday, March 31, 2020 1:50 PM
To: Julie Fera Francis
Subject: RE: Arnette Jr., Jerry M. / 00FC6930, 00FF3058

Julie,

Thanks for sending this along. Makes sense to me.

Jordan

Jordan P. Carey | Manager Disability Benefits
The Standard
Standard Insurance Company
900 SW Fifth Avenue | Portland, OR 97204
Phone 971.321.6255 | Cell 971.326.0045
Fax 800.437.0961
Jordan.Carey@standard.com | www.standard.com

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From: Julie Fera Francis <Julie.FeraFrancis@standard.com>
Sent: Tuesday, March 31, 2020 1:47 PM
To: Jordan Carey <Jordan.Carey@standard.com>
Subject: Arnette Jr., Jerry M. / 00FC6930, 00FF3058

Hi Jordan –

Please see attached for the findings of an ARU review of a decision to limit and close the above referenced LTD claim. I have drafted a letter upholding the limit for a number of the claimant's conditions, but our review found a non-Limited condition that continues to cause some L&Rs that would continue to preclude his Own Occupation. However, the claim has been paid for 24 months, so it is at the Any Occ date at present. I will return the file to your team for an Any Occ investigation to be completed, and in my letter am advising his attorney that could lead to his file staying closed as of the same date anyway.

Let me know if you have any questions.
Thanks,

Julie A Fera | Benefits Review Specialist
The Standard
Standard Insurance Company
900 SW Fifth Avenue | Portland, OR 97204
Phone 971.321.8621 | Fax 971.321.5038
julie.ferafrancis@standard.com | www.standard.com

Julie Fera Francis

From: Julie Fera Francis
Sent: Tuesday, March 31, 2020 1:47 PM
To: Jordan Carey
Subject: Arnette Jr., Jerry M. / 00FC6930, 00FF3058
Attachments: Arnette RFAI memo SC (new version).docx

Hi Jordan –

Please see attached for the findings of an ARU review of a decision to limit and close the above referenced LTD claim. I have drafted a letter upholding the limit for a number of the claimant's conditions, but our review found a non-Limited condition that continues to cause some L&Rs that would continue to preclude his Own Occupation. However, the claim has been paid for 24 months, so it is at the Any Occ date at present. I will return the file to your team for an Any Occ investigation to be completed, and in my letter am advising his attorney that could lead to his file staying closed as of the same date anyway.

Let me know if you have any questions.
Thanks,

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ARU Decision Memo

Date: 03-30-20

Claimant/Claim No: Jerry M. Arnette, Jr. / 00FC6930, 00FF3058

Reason for appeal: Limitation closure

From: Julie A. Fera, Benefits Review Specialist

Julie A. Fera

Determination: At this time, per information currently available in this claim file, additional investigation is required to determine if Mr. Arnette meets the Any Occupation Definition of Disability of the State of South Carolina LTD Plan, due to his documented non-Limited medical condition of lumbar radiculopathy with neurologic abnormalities.

Review Summary: Mr. Arnette is a 50 year old Driver's License Examiner, who last worked on 02-13-17, due to neck pain. He underwent a two-level ACDF on 03-06-17. Prior to then he had already undergone lumbar microdiscectomy with decompression in 05/2016. Since his cease work date, he has also undergone cataracts and septoplasty surgeries, and has been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint polyarthropathies, and hallux rigidus.

After an initial claim investigation, this claim was approved due to Mr. Arnette's inability to perform significant standing/walking due to his neck and back conditions, which impaired him from his Own Occupation of Driver's License Examiner as it requires Light Work capability. Later, it was determined Mr. Arnette's impairing medical conditions fell within the definition of Chronic Pain, Musculoskeletal And Connective Tissue Disorders, which means his Disability caused by those conditions was Limited to a maximum of 24-months of benefits.

However, it was then determined Mr. Arnette's other, non-Limited medical conditions, as noted above, were not documented as being of such severity, in and of themselves, as to impair him from being able to perform at least Light Work, when his limitations and/or restrictions caused by his Limited conditions were not taken into consideration. That decision meant Mr. Arnette's claim would be closed after 24-months of benefits, ending 05-14-19, due to a finding that he did not meet the applicable Definition of Disability beyond then due to one or more conditions not subject to the Limited Pay Period provision stipulated in the LTD Plan. He was notified of that limitation and closure decision in a letter dated 05-16-19, after which his attorney requested a review of that decision on his behalf. Subsequently, she provided additional medical information to be included in our review, the last of which was received on 01-21-20. As such, we began our administrative review of Mr. Arnette's LTD claim as of that date.

During our review, the Administrative Review Unit had Mr. Arnette's file reviewed by an Independent Peer Review (IPR) Physician board-certified in IM and one board-certified in Physical Medicine & Rehabilitation (PM&R). After his review, the IM IPR Physician noted his findings that the records support several diagnoses, including COPD, hypertension, gout, hyperlipidemia, arthropathy of multiple joints, chronic kidney disease, cataracts and hallux rigidus. However, he also provided his medical opinion that the available medical information did

not support any of those conditions, either alone or in any combination, are documented as being of such severity as to result in any functional impairment. In that regard, his opinion was that impairment from full-time work was not supported due to those conditions. Conversely, the IM IPR Physician noted Mr. Arnette has "evident herniated disks with neurological abnormalities, radiculopathy confirmed with EMG work-up identifying lumbosacral radiculopathy; also, spondylosis, confirmed with imaging".

The PM&R IPR Physician noted the available records support diagnoses of axial neck, mid- and low back pain, cervical disc disruption C4-5, status post C5-7 ACDF, lumbar disc disruption L3-S1 status post L5 posterior decompression, and chronic L5-S1 radicular changes. He further noted Mr. Arnette's "3/12/18 EMG reflected [those changes] and confirmed radiculopathy", and that Mr. Arnette "also has evident neurological abnormalities". The PM&R IPR Physician provided his medical opinion that, due solely to his lumbar radiculopathy, Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day.

In that regard, the Administrative Review Unit finds the currently available medical records support Mr. Arnette has lumbar radiculopathy with neurological abnormalities, which is a condition specifically excluded from the definition of Chronic Pain, Musculoskeletal And Connective Tissue Disorders. Our review also finds that Mr. Arnette had and continues to have limitations and/or restrictions due to that non-Limited condition impairing him from performing Light Work as of and continuing after 05/14/19. Therefore, this file will be returned to Life & Disability Services, for a determination regarding Mr. Arnette's eligibility for any additional benefits after that date under the Definition of Disability of the State of South Carolina LTD Plan applicable at that time.



March 27, 2020

Administrative Consultants
for State of South Carolina

MS M LEILA LOUZRI
FOSTER LAW FIRM LLC
25 MILLS AVE
GREENVILLE, SC 29605

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

We are writing today to update you on the status of the independent review of the decision to close the Long Term Disability (LTD) claim of your client, Jerry M. Arnette, Jr.

At this time, the Administrative Review Unit of Standard Insurance Company, Claims Administrator for the State of South Carolina LTD Plan, are still reviewing your client's claim. However, we expect to have our review completed shortly. We will notify you in writing of our determination promptly upon completion of our review.

Once again, thank you for your continued cooperation and patience during the independent review process. If you or your client have any questions, please feel free to write or call me.

Sincerely,

Julie Fera Francis
Benefits Review Specialist
800-628-9696 ext. 8621

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March 6, 2020

Administrative Consultants
for State of South Carolina

MS M LEILA LOUZRI
FOSTER LAW FIRM LLC
25 MILLS AVE
GREENVILLE, SC 29605

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

We are writing to provide you with another update on the status of the independent review of the decision to close the Long Term Disability (LTD) claim of your client, Jerry M. Arnette, Jr.

As indicated in prior correspondence, Standard Insurance Company (The Standard) attempts to complete all reviews of contested claims within 45 days after we begin a requested review, unless circumstances require an extension of an additional 45 days.

With that in mind please recall, as indicated in our last letter, we had sent your client's file for an additional medical review, to be performed by a medical professional who had not been previously consulted with regard to his claim.

Although Mr. Arnette's file was just recently returned from that additional medical review, we have not yet been able to complete the independent review of his claim file, as a whole, as of today, which is the 45th day after this review began.

Therefore, please be advised that we must extend our review by the additional 45-day review period allowed under the State of South Carolina LTD Plan. In that regard, we currently expect to have this review completed on or before April 20, 2020, which will be the 90th day after the date The Standard began our review.

Until our review is complete, the decision to close your client's LTD claim will stand. Therefore, we understand the importance of a timely review.

Pending completion, we will continue to send you periodic written updates regarding the status of this review process. You will also be notified of our determination in writing immediately upon completion of this review.

Again, thank you for your continued cooperation and patience during the independent review process. If you have any questions, please feel free to write or call me at the number below. I can also be reached by fax at (971) 321-5038.

Sincerely,

Julie A. Fera

Julie Fera Francis
Benefits Review Specialist
800-628-9696 ext. 8621

February 13, 2020

Administrative Consultants
for State of South Carolina

MS M LEILA LOUZRI
FOSTER LAW FIRM LLC
25 MILLS AVE
GREENVILLE, SC 29605

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

We are writing today to update you on the status of the independent review of the decision to close the Long Term Disability (LTD) claim of your client, Jerry M. Arnette, Jr.

Please recall, as part of the independent review process, your client's file will undergo an additional medical review, which will be performed by a medical professional who has not been previously consulted with regard to his claim. Once that review is complete, Mr. Arnette's file will be returned to the Administrative Review Unit for completion of the independent review process.

Until a decision has been reached with regard to this review, the original decision to close your client's LTD claim as of May 14, 2019, will stand. Therefore, we understand the importance of a timely review. We expect to have this review completed shortly, but pending completion we will continue to provide you with periodic written updates regarding the status of our review.

Thank you for your continued cooperation and patience during the independent review process. If you or your client have any questions, please feel free to write or call me at the number below. I can also be reached by fax at (971) 321-5038.

Sincerely,

Julie A. Fera

Julie Fera Francis
Benefits Review Specialist
800-628-9696 ext. 8621

R 152



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January 27, 2020

Administrative Consultants
for State of South Carolina

MS M LEILA LOUZRI
FOSTER LAW FIRM LLC
PO BOX 2123
GREENVILLE, SC 29602

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Ms. Louzri:

We are writing today to update you on the status of the independent review of the decision to limit and close the Long Term Disability (LTD) claim of your client, Jerry M. Arnette, Jr.

As you may recall, we had not begun the review of your client's LTD claim at your request to allow you time to provide additional medical information for inclusion in our review. Since we received the last of that additional documentation on January 21, 2020, we began our review of your client's LTD claim as of that date.

In that regard, Mr. Arnette's file will now be sent for an additional medical review, which will be performed by a medical professional who has not been previously consulted with regard to his LTD claim. Once that review is complete, your client's LTD claim file will be returned to the Administrative Review Unit for completion of the independent review process.

We expect that our review will be completed within 45 days of the date this review began, or by March 6, 2020, if not prior to then. In the meantime, until a decision has been reached with regard to this review, the original decision to limit and close your client's LTD claim as of May 14, 2019, will stand.

Pending completion, we will continue to send you periodic written updates regarding the status of this review process. You will also be notified of our determination in writing immediately upon completion of our review.

As before, thank you for your continued cooperation and patience during this independent review process. If you or your client have any questions, please feel free to write or call me. I can also be reached by fax at (971) 321-5038.

MS M LEILA LOUZRI

2

January 27, 2020

Sincerely,

Julie A. Fera

Julie Fera Francis
Benefits Review Specialist
800-628-9696 ext. 8621

PAUL J. FOSTER, JR., 1928-1999
ROBERT E. HOSKINS, 1965-2016

FOSTER LAW FIRM, L.L.C.

Attorneys and Counselors at Law

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JAN 24 2020

M. Leila Louzri*
llouzri@fosterfoster.com
GREENVILLE
*Licensed in SC and NC

January 21, 2020

VIA FACSIMILE @ 971.321.5038 &
US MAIL

Standard Insurance Company
Attn: Julie Fera Francis
PO Box 2800
Portland, OR 97208-2800

RE: Jerry M. Arnette, Jr.
State of South Carolina
LTD Plan No.: 627284, 621144
Claim No.: 00FC6930, 00FF3058

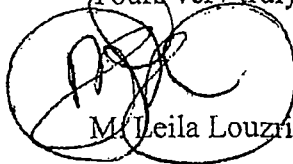
Dear Ms. Francis:

This is a follow up to my previous letter wherein I advised that I would be submitting additional materials to you to be considered on Mr. Arnette's appeal. I respectfully ask that you consider the attached: 1) the statement of Dr. Jason Highsmith.

It is my hope that the above will persuade you to award Mr. Arnette the benefits which he seeks. I will not be submitting any additional materials to you to be considered on Mr. Arnette's appeal. Please begin your review of his claim. If you need anything further, or if you have any questions or comments, please do not hesitate to contact me. Otherwise, I look forward to receiving a decision from you in the near future.

With kind regards, I remain,

Yours very truly,


M. Leila Louzri

MLL/abc
Enclosures

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**STATEMENT OF
DR. JASON HIGHSMITH**

1. I am medical doctor licensed to practice in the state of South Carolina, and I practice in Charleston, South Carolina. I am board certified in Neurosurgery. I have been asked by my patient, Mr. Jerry Arnette, to provide this statement to be used in his quest for disability insurance benefits. This statement is based upon my medical education, experience, my specific knowledge of Mr. Arnette's medical problems and treatment history.

2. Mr. Arnette suffers from radiculopathy. Subjectively, as a result, he suffers:

- a) chronic back pain;
- b) tingling in feet and legs;
- c) radiating pain in feet and legs;
- d) decreased sleep;
- e) fatigue;
- f) muscles aches.

His activities are limited as follows:

- i) He has difficulty performing some activities of daily living;
- ii) He cannot perform any activity for an extended period of time;
- iii) He cannot sit, stand, or walk for prolonged periods of time;
- iv) Because of his medical conditions it is difficult for him to maintain a consistent schedule;
- v) He cannot lift more than 10 lbs.

Mr. Arnette's subjective symptoms are consistent with his diagnosed conditions.

3. Mr. Arnette is treatment compliant, and he currently takes Amlodipine, Gabapentin, Allopurinol, Bethanechol, Cyclobenzaprine, Tamulosin, Pantoprazole and Tramadol.

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4. It is my understanding from Mr. Arnette that his disability insurance provider has terminated benefits asserting that his disability claim is limited to twenty-four months.

5. I have been advised that the disability policy in question contains a definition of disability as follows:

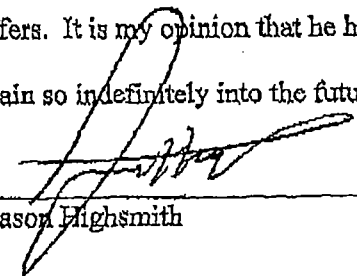
B. Any Occupation Definition of Disability

During the Any Occupation Period, you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

6. It is my opinion, based upon my medical education and experience and based upon my specific knowledge of Mr. Arnette's problems and treatment history that he is and has been disabled, as a result of his radiculopathy, from performing any occupation, consistent with the definition of disability above. I render my opinion based upon Mr. Arnette's diagnosis of radiculopathy and the subjective symptoms he suffers. It is my opinion that he has been so disabled since February 2017 and that he will remain so indefinitely into the future.


Dr. Jason Highsmith

Carolina Neurosurgery & Orthopedics, Inc.

161 Medical Circle
West Columbia, SC 29169
Phone: (803) 764-1813
Fax: (843) 474-0712

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Fax: (843) 474-0712

NEW PATIENT EVALUATION**Patient Name:** Jerry Amette**Record #:** 175099**Date:** 03/07/2019**Date of Birth:** [REDACTED]**Chief Complaint:** Neck and low back pain.

History of Present Illness: The patient is a gentleman well known to me with history of previous arthroplasty C5 to C7 and lumbar decompression L4-5 for a foot drop, who presents with persistent neck, mid and low back pain with pain levels reaching 6-7/10. He also reports pain in the elbows bilaterally and legs bilaterally diffusely to the right ankle. Symptoms are worse with his job, where he arrives in trucks for long periods. It is also worse prolonged standing, sitting, and activities of daily living.

The patient report some gait impairment with stumbling forward as he walks. He is here today to discuss additional treatment options.

Social History: The patient is single.**Review of Systems:**

Constitutional: Positive for fatigue. The patient denies weight loss, or weakness.

Skin: The patient denies rashes, pruritus, lesions, or bruising.

Head: The patient denies dizziness.

Eyes: Positive for wears glasses. The patient denies change in visual fields, photophobia, diplopia, inflammation, or discharge.

Ear, Nose, and Throat: Positive for sinus problems. Ears, the patient denies any hearing changes, tinnitus, pain, or discharge. Nose, the patient denies nosebleeds or obstructive polyps. Throat, the patient denies inflammation, lesions, discharge, or hoarseness. Mouth, the patient denies any dentures, lesions, or discharge.

Respiratory: Positive for asthma, shortness of breath. The patient denies shortness of breath, wheezing, cough, or hemoptysis.

Cardiovascular: Positive for chest pain, hypertension.

Gastrointestinal: Positive for constipation, indigestion. The patient denies nausea, vomiting, or diarrhea.

Genitourinary: Positive for difficulty starting urinary stream. The patient denies sexual dysfunction.

Endocrine: The patient denies polyphagia, polydipsia, polyuria, thyroid problems, glycosuria, or hormone therapy.

Musculoskeletal: Per HPI.

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Patient Name: Jerry Arnette
Record #: 175099
Date: 03/07/2019
Page 2

Hematologic: The patient denies anemia, bleeding tendencies, bruising easily.
Neurologic: Positive for memory problems. No lymphadenopathy.
Psychiatric: The patient denies any memory changes.

Past Medical History: Gout, bladder tension, benign prostatic hypertrophy, hypertension.

Past Surgical History: None.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 205 pounds. HEENT: Head is normocephalic. Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign. Sensation is intact to pinprick and light touch throughout. The patient has well-healed cervical incision. Physical exam of the cervical spine reveals tenderness to palpation of the cervical paraspinous muscle with palpable muscle spasm present. Trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is tender at the midline from C3 to C7 with limited range of motion and pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. The patient has well-healed lumbar incision. Physical exam of the lumbar spine reveals tenderness to palpation of the lumbar paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient is tender at the midline from L3 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise. Physical exam of the left elbow reveals tenderness to palpation at the medial epicondyle. There are similar findings in the right but less degree. There is no palpable bony deformity.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.

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Patient Name: Jerry Arnette
Record #: 175099
Date: 03/07/2019
Page 3

Treatment/Recommendations: The patient would likely require L4-5 decompression and fusion at later date. He has extensive pain from cervical and lumbar discs as well as epicondylitis and multijoint polyarthropathy. I recommend the patient continue activity as tolerated as well as followup with pain management for additional treatment modalities.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

Dictated but not proof read

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DEC 27 2019

Administrative Review Unit

R 171

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DEC 26 2019

0197

Carolina Neurosurgery & Orthopedics, Inc.

181 Medical Circle
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Fax: (843) 474-0712

2810 Tricom Street, Suite 201
North Charleston, SC 29406
Phone: (843) 510-0727
Fax: (843) 474-0712

FOLLOWUP NOTE

Patient Name: Jerry Arnette Jr.

Record #: 175099

Date: 08/16/2019

Date of Birth: [REDACTED]

Subjective: The patient returns today for followup from his midback, neck and low back pain. He also reports some increasing mid back pain as well like her fist is striking in the middle of his back worse with pushing, pulling, and twisting. He had recent plain film imaging, x-rays are fairly unremarkable. He is here today to discuss additional treatment options. He reports a sharp stabbing sensation across the neck and midback radiating to the paraspinous muscles as well as low back with persistent burning in the right leg. He has undergone previous lumbar decompression by myself at L4-5. There is some residual radicular leg pain, disc herniation.

The patient had undergone anterior cervical discectomy with arthroplasty by myself as well with improvement in his axlax neck pain, but again is still left with significant mid and low back pain.

Review of Systems:

General: Negative for dizziness, chills, fevers or sweats.

Musculoskeletal: Significant as in HPI.

Genitourinary: Denies blood in urine, frequent urination, or lack of bowel or bladder control. Denies any sexual dysfunction.

Skin: Denies bruising easily, itching or rashes.

Gastrointestinal: Denies nausea, vomiting or indigestion.

Cardiovascular: Denies chest pain.

HEENT: Denies blurry vision, bleeding gums, double vision, earaches or hoarseness.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 210 pounds. HEENT: Head is normocephalic. Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign.

Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 08/16/2019
Page 2

Sensation is intact to pinprick and light touch throughout. The patient has well-healed cervical incision. Physical exam of the cervical spine reveals minimal tenderness to palpation of the cervical paraspinous muscle with no palpable muscle spasm present. No trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is nontender at the midline from C3 to C7 with normal range of motion and no pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. Physical exam of the thoracic spine reveals tenderness to palpation of the thoracic paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left trapezius and latissimus dorsi. The patient is tender at the midline from T4 to T8 with limited range of motion and pain at the endpoints. Physical exam of the lumbar spine reveals moderate tenderness to palpation of the lumbar paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient has moderate-to-severe tenderness at the midline from L3 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.
5. Axial midback pain.

Treatment/Plan: Given the patient's persistent mid back pain, I am recommending MRI imaging of the thoracic spine. I would like to get standing 36-inch films to evaluate for coronal deformity and scoliosis. In the interim, we will continue to have him follow up with pain management. He is going to see a doctor in Florence which is closer.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

Dictated but not proofread

R 173

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Carolina Neurosurgery & Orthopedics, Inc.

161 Medical Circle
West Columbia, SC 29169
Phone: (803) 764-1813
Fax: (843) 474-0712

2910 Tricom Street, Suite 201
North Charleston, SC 29406
Phone: (843) 510-0727
Fax: (843) 474-0712

FOLLOWUP NOTE

Patient Name: Jerry Arnette Jr.

Record #: 175099

Date: 09/18/2019

Date of Birth: [REDACTED]

Subjective: The patient returns today in followup from his neck, mid and low back pain. He reports his neck pain is currently at a tolerable level; however, his mid back pain is quite severe radiating into the paraspinous muscles, worse with coughing and twisting. He states it is difficult to breathe often. Most of his pain is at the inferior portion of the scapula radiating down. He is unable to take nonsteroidal anti-inflammatories because of kidney disease and ulcers. He also reports some persistent low back and radicular right leg pain radiating into the dorsal right foot where he has undergone previous L4-5 decompression by myself, but has had some residual radiculopathy in spite of negative imaging.

The patient presents today with 36-inch plain films of the spine demonstrating multilevel degenerative changes, most notable from L3 to S1.

He also returned with MRI imaging of the thoracic spine showing multilevel disc disruptions at T1-2 and from T6 to T9. There is also dilated central canal at T5 to T8. The patient is here today to discuss additional treatment options.

Review of Systems:

General: Negative for dizziness, chills, fevers or sweats.

Musculoskeletal: Significant as in HPI.

Genitourinary: Denies blood in urine, frequent urination, or lack of bowel or bladder control. Denies any sexual dysfunction.

Skin: Denies bruising easily, itching or rashes.

Gastrointestinal: Denies nausea, vomiting or indigestion.

Cardiovascular: Denies chest pain.

HEENT: Denies blurry vision, bleeding gums, double vision, earaches or hoarseness.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac and other nonsteroidal anti-inflammatories that are contraindicated because of his kidney disease.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile.

Height is 6 feet and weight is 212 pounds. HEENT: Head is normocephalic.

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Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 09/18/2019
Page 2

Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign. Sensation is diminished in the right dorsal foot distally, otherwise is intact to pinprick and light touch throughout. The patient has a well-healed cervical incision. Physical exam of the cervical spine reveals mild tenderness to palpation of the cervical paraspinal muscle with no palpable muscle spasm present. No trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is mildly tender at the midline from occiput to C7 with normal range of motion and no pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. Physical exam of the thoracic spine reveals moderate tenderness to palpation of the thoracic paraspinal muscles with palpable muscle spasms present. Trigger points are identified in the right and left trapezius and latissimus dorsi. The patient is moderate to severely tender at the midline from T4 to T12 with limited range of motion and pain at the endpoints. Physical exam of the lumbar spine reveals moderate to severe tenderness to palpation of the lumbar paraspinal muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient has moderate-to-severe tenderness at the midline from L1 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain with right lower extremity radiculopathy.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.
5. Axial midback pain.
6. Chronic L5-S1 radicular changes.

Treatment/Plan: Unfortunately, the patient has been with disabling chronic radiculopathy with neurologic deficits and pain. He cannot take standard nonsteroidal anti-inflammatories, which would be helpful in treating his pain, but symptoms certainly qualified him for disability.

He would benefit from evaluation with pain management to see whether additional interventional therapy such as facet blocks and radiofrequency ablation are indicated.

Also, he could benefit from referral to rheumatology to see whether additional medications that he can be placed on. We are welcoming input from his primary

R 175

SIC BENEFITS DEP.

DEC 2020

Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 09/18/2019
Page 3

care physician, Dr. Fitzgibbon and continue to manage him from this point.
Unfortunately, there is nothing else we can offer him surgically.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

Dictated but not proofread

cc: Dr. Timothy Fitzgibbon in Dillon, South Carolina

R 176

RECEIVED
SIC BENEFITS DEPT
DEC 26 2019
0202

Any Occupation Review

To: [REDACTED] Date submitted: 9/13/2018

From: Sheena Raab Extension: 7011 Location: C10

Claimant: Jerry M. Arnette Claim No: 00FC6930

Claim Status: ACTIVE Pending and Disputed DOL Deadline [REDACTED] Any Occ Date: 5/14/2019

Please complete an Any Occupation Review (Transferable Skills Assessment) to identify alternate occupations for which the claimant would be able to perform given the criteria noted below:

CASE SUMMARY:

Client is a 48 year old Drivers license examiner who ceased work on 2/14/17 due to lumbar disc disease.

DIAGNOSIS/PROGNOSIS:

Lumbar disc disease, (low back/neck pain), hallux rigidus, tenosynovitis, and synovitis, cataracts, chronic kidney disease, asthma, chest pain, obstructive sleep apnea, abdominal pain, chronic sinusitis and left ear pain.

LIMITATIONS AND RESTRICTIONS (including cognitive):

Lumbar disc disease, (low back/neck pain): limited to lift, pull, push up to 10#. Frequent reach/finger/handle - stable unless additional Sx

hallux rigidus, tenosynovitis, and synovitis: occasional walk/standing: Occasional kneeling and crawling

Cataracts, Asthma, Chest Pain, Abdominal Pain, Chronic sinusitis and left ear pain: no current L&Rs

Obstructive Sleep Apnea: no work with heavy machinery or at heights, no climbing.

Claim type for review: LTD

Please see PC's [REDACTED] 's memo dated : 8/28/2018 for L & Rs.

Please consider: [REDACTED] Labor Market: National

Location of Residence: Dillon City South Carolina

2nd location to consider: [REDACTED] City Select One State

Is the claimant working? No

Choose the Any Occ Definition of Disability K2K

Use percentage from the Any Occ Definition of Disability stated by the policy

What percentage does the policy indicate? 65.00%

Wage Calc

R 216

PDE: \$2,524.58 x PE factor 1.02200 x % 65.000% = Wage Calc \$1,677.07849

0203

From the desk of:

Sheena Raab

2/21/2018 11:40 AM

Re: JERRY M ARNETTE JR

Policyholder: STATE OF SOUTH CAROLINA

Member SS#: xxx-xx-xxxx

Group ID#: 10033710

Claim #: 00FC6930

Policy #: 627284

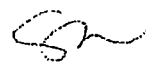
Mr. Arnette called, he said he received the 750A and he's concerned because he feels his disability is not caused by back pain, but by radiating leg pain. He wants to be sure that this is documented.

He asked how long we will review the claim. I explained the OO vs. AO Periods for the LTD claim and also the need to review if any of his Dx are Limited and only Payable for a max 24 months in one's lifetime. I said I'm order all his records for review now and I will send the file for a medical file review. He said he didn't have a test done by the doctor to Dx his leg pain. I said if he has a test done. I'm happy to have the information reviewed. But we can only review what is currently in the file, which is why I'm ordering all his updated medical information.

He thanked me. No further questions. D/C call.

R 223

Signed



0204



Standard Insurance Company
Benefit Department
PO Box 2800
Portland Oregon 97208-2800

TO: JERRY M ARNETTE JR MBR ID: [REDACTED] GROUP ID: 10033710
GROUP POLICYOWNER: STATE OF SOUTH CAROLINA SUPP POLICY: 621144
DATE: 08/23/17 CLAIM: 00FF3058

We are pleased to inform you that your claim for long term disability (LTD) benefits has been APPROVED. This notice explains how your benefits have been calculated.

LTD benefits have been computed using the benefit formula described in your group policy. Your LTD benefits are reduced by any Deductible Income that you or your dependents are eligible to receive as a result of your disability or retirement (including, but not limited to, sick leave or salary continuation, Social Security, Workers Compensation, Unemployment benefits, rehabilitation wages, and/or retirement benefits).

If you are presently receiving Deductible Income which is not shown below, please forward a copy of any official statement you have received about the amount of this income and the period it covers. In some cases, a minimum LTD benefit may be payable if your Deductible Income exceeds a specified amount.

If you are awarded Deductible Income in the future or you return to work or recover from your disability, please notify our office immediately to minimize possible overpayment of your claim. Your monthly LTD benefit is:

Maximum Benefit Payable	\$ 1,640.98
Minimum Monthly Benefit	\$ 100.00

Deductible Income used in calculation of the first check*:

BASIC OFFSET	05/15/17 TO 08/26/34	\$ 800.00
SALARY CONTINUATION	05/15/17 TO 05/15/17	\$ 2,524.58

Below is the first check calculation. The first line indicates the dates the Benefit Waiting Period began and ended. As you can see, no benefits are payable during the Benefit Waiting Period.

Waiting Period In Days: 90

	02/14/17 THRU 05/14/17	\$ 0.00
Adjusted Net Benefit	05/15/17 THRU 07/31/17	\$ 2,061.61
FIRST CHECK DUE:	08/23/17 TOTAL	\$ 2,061.61

If you are eligible for additional LTD Benefits, you will receive them on the 1st of each month.

We hope that the above information helps you understand your first benefit check from STANDARD. If you have any questions about your coverage under your group policy, please refer to your Certificate of Insurance or contact:

SHEENA RAAB-DIS BEN ANALYST () -

MONTHLY RATE: *Deductible Income received for less than a one-month period is converted to an equivalent monthly rate.

DAILY RATE: A Daily Rate is used when your LTD benefit or your Deductible Income applies for only a partial month. The Daily Rate is calculated as follows: 0205

TO: JERRY M ARNETTE JR **MBR ID:** [REDACTED] **GROUP ID:** 10033710
PLAN SPONSOR: STATE OF SOUTH CAROLINA ASO **PLAN DOC:** 627284
DATE: 08/23/17 **CLAIM:** 00FC6930

We are pleased to inform you that your claim for long term disability (LTD) benefits has been APPROVED. This notice explains how your benefits have been calculated.

LTD benefits have been computed using the benefit formula described in your plan document. Your LTD benefits are reduced by any Deductible Income that you or your dependents are eligible to receive as a result of your disability or retirement (including, but not limited to, sick leave or salary continuation, Social Security, Workers Compensation, Unemployment benefits, rehabilitation wages, and/or retirement benefits).

If you are presently receiving Deductible Income which is not shown below, please forward a copy of any official statement you have received about the amount of this income and the period it covers. In some cases, a minimum LTD benefit may be payable if your Deductible Income exceeds a specified amount.

If you are awarded Deductible Income in the future or you return to work or recover from your disability, please notify our office immediately to minimize possible overpayment of your claim. Your monthly LTD benefit is:

Maximum Benefit Payable	\$	800.00
Minimum Monthly Benefit	\$	0.00

Deductible Income used in calculation of the first check*:
NONE USED FOR THIS CHECK

Below is the first check calculation. The first line indicates the dates the Benefit Waiting Period began and ended. As you can see, no benefits are payable during the Benefit Waiting Period.

Waiting Period In Days: 90		
	02/14/17 THRU 05/14/17	\$ 0.00
Adjusted Net Benefit	05/15/17 THRU 08/31/17	\$ 2,838.72
Less Social Security Tax		\$ -176.00
Less Medicare Tax		\$ -41.16
Less Federal Income Tax		\$ -215.86
Less State Income Tax		\$ -198.71
FIRST CHECK DUE:	09/01/17 TOTAL	\$ 2,206.99

If you are eligible for additional LTD Benefits, you will receive them on the 1st of each month.

We hope that the above information helps you understand your first benefit check. If you have any questions about your coverage under your plan document, please refer to your Summary Plan Description, or contact:

SHEENA RAAB-DIS BEN ANALYST () -

MONTHLY RATE: *Deductible Income received for less than a one-month period is converted to an equivalent monthly rate.

TO: JERRY M ARNETTE JR **MBR ID:** [REDACTED] **GROUP ID:** 10033710
PLAN SPONSOR: STATE OF SOUTH CAROLINA ASO **PLAN DOC:** 627284
DATE: 08/31/17 **CLAIM:** 00FC6930

We are pleased to inform you that your claim for long term disability (LTD) benefits has been APPROVED. This notice explains how your benefits have been calculated.

LTD benefits have been computed using the benefit formula described in your plan document. Your LTD benefits are reduced by any Deductible Income that you or your dependents are eligible to receive as a result of your disability or retirement (including, but not limited to, sick leave or salary continuation, Social Security, Workers Compensation, Unemployment benefits, rehabilitation wages, and/or retirement benefits).

If you are presently receiving Deductible Income which is not shown below, please forward a copy of any official statement you have received about the amount of this income and the period it covers. In some cases, a minimum LTD benefit may be payable if your Deductible Income exceeds a specified amount.

If you are awarded Deductible Income in the future or you return to work or recover from your disability, please notify our office immediately to minimize possible overpayment of your claim. Your monthly LTD benefit is:

Maximum Benefit Payable	\$	800.00
Minimum Monthly Benefit	\$	0.00

Deductible Income used in calculation of the first check*:
NONE USED FOR THIS CHECK

Below is the first check calculation. The first line indicates the dates the Benefit Waiting Period began and ended. As you can see, no benefits are payable during the Benefit Waiting Period.

Waiting Period In Days: 90	
02/14/17 THRU 05/14/17	\$ 0.00
Adjusted Net Benefit 05/15/17 THRU 08/31/17	\$ 2,838.72
Less Social Security Tax	\$ -176.00
Less Medicare Tax	\$ -41.16
Less Federal Income Tax	\$ -215.86
Less State Income Tax	\$ -198.71
FIRST CHECK DUE: 09/01/17 TOTAL	\$ 2,206.99

If you are eligible for additional LTD Benefits, you will receive them on the 1st of each month.

We hope that the above information helps you understand your first benefit check. If you have any questions about your coverage under your plan document, please refer to your Summary Plan Description, or contact:

SHEENA RAAB-DIS BEN ANALYST () -

MONTHLY RATE: *Deductible Income received for less than a one-month period is converted to an equivalent monthly rate.

DAILY RATE: A Daily Rate is used when your LTD benefit or your Deductible Income

R-239

0207

TO: JERRY M ARNETTE JR MBR ID: [REDACTED] GROUP ID: 10033710
GROUP POLICYOWNER: STATE OF SOUTH CAROLINA SUPP POLICY: 621144
DATE: 08/31/17 CLAIM: 00FF3058

We are pleased to inform you that your claim for long term disability (LTD) benefits has been APPROVED. This notice explains how your benefits have been calculated.

LTD benefits have been computed using the benefit formula described in your group policy. Your LTD benefits are reduced by any Deductible Income that you or your dependents are eligible to receive as a result of your disability or retirement (including, but not limited to, sick leave or salary continuation, Social Security, Workers Compensation, Unemployment benefits, rehabilitation wages, and/or retirement benefits).

If you are presently receiving Deductible Income which is not shown below, please forward a copy of any official statement you have received about the amount of this income and the period it covers. In some cases, a minimum LTD benefit may be payable if your Deductible Income exceeds a specified amount.

If you are awarded Deductible Income in the future or you return to work or recover from your disability, please notify our office immediately to minimize possible overpayment of your claim. Your monthly LTD benefit is:

Maximum Benefit Payable	\$ 1,640.98
Minimum Monthly Benefit	\$ 100.00

Deductible Income used in calculation of the first check*:

BASIC OFFSET	05/15/17 TO 08/26/34	\$ 800.00
SALARY CONTINUATION	05/15/17 TO 05/15/17	\$ 2,524.58

Below is the first check calculation. The first line indicates the dates the Benefit Waiting Period began and ended. As you can see, no benefits are payable during the Benefit Waiting Period.

Waiting Period In Days: 90

	02/14/17 THRU 05/14/17	\$ 0.00
Adjusted Net Benefit	05/15/17 THRU 08/31/17	\$ 840.98
FIRST CHECK DUE:	09/01/17 TOTAL	\$ 840.98

If you are eligible for additional LTD Benefits, you will receive them on the 1st of each month.

We hope that the above information helps you understand your first benefit check from STANDARD. If you have any questions about your coverage under your group policy, please refer to your Certificate of Insurance or contact:

SHEENA RAAB-DIS BEN ANALYST () -

MONTHLY RATE: *Deductible Income received for less than a one-month period is converted to an equivalent monthly rate.

DAILY RATE: A Daily Rate is used when your LTD benefit or your Deductible Income applies for only a partial month. The Daily Rate is calculated by

Need Records? ☐ Information from Employee ☐ Approval letter? ☒ Misc, PERS, SSD request ☐ Letter? ☒ LWOP/CLI? ☐ Call/Other ☐
 Additional Records? ☐

Work Order Request

Date: 8/23/2017 Claim No. 00FC6930 Name: Jerry M. Arnette Jr.
 Requesting Analyst: Sheena Raab Claim Assistant: Lindsey

2 Days - Approval

☒ Send 1-3A Approval w/paragraph ☒ Send Approval ltr to ER 3650
 Attachments: ☒ TAX Form ☒ EFT Other:
☐ Scan ER/EE, Auth, PDE wrksh, enrollment form if apl to LWOP alias ☒ Send file to Allsup: general referral per claimant request
☒ Letters (Check Appropriate Options):
 Lex Letters: SC7500 Lex Letter
 *When selecting a LEX letter, please provide more detail as needed on the following line.
 500 letter drop-downs here --> applied to SSD 1
☐ Other Specify

Task completed by claim assistant on:

8/24
 WJ

Work Flow Tracker:

*Place an "X" in each column when each review/referral has been completed.

Claim score	GA	LEM	VCM	Analyst	SS?	Waiver
3						
7						
10						

SP 1640.98
 LT: 915 - 8/31 800
 2424.15
 CP: 915 - 8/31 840.98
 2902.54
 5115 2524.68

87 R 241

Benefits Department

NEW CLAIM APPROVAL CALL

Claimant name: Jerry M. Arnette Jr.

Claim # 00FC6930

Analyst Name: Sheena Raab☐ Claimant unavailable left message for return call on:8/23/2017 13:55

Date Time

☐ Discussed the following checked (X) topics and completed call on

Date Time

TOPIC	DETAILS
☒ Benefit Waiting Period: (days)	90 days
☒ Benefit Formula:(percentage)	65.00%
☒ Taxability: (percentage and withholding if applicable) All claimant receive W2 at year end	Withholding ☒ FIT ☒ SIT (SIT required if FIT elected for Illinois, Iowa and Massachusetts: SIT only allowed with FIT for Arizona)
☒ Minimum Benefit: (\$)	\$100.00
☒ Deductible Income/Overpayments:	☒ SS ☒ PERS ☐ WC ☐ DI ☐ RO ☐ SL explained that lump sum SCRS withdrawal is also DI Other:
☒ Dependents/Youngest Child DOB	10/1/2014
☒ Benefit Contributions Deductions:	
☒ Date Checks are due:	1st of every month
☒ Amount of 1st check:	OP:2,061.61/LT:2,83
☐ Dates covered in 1st check	5/15/2017 TO 8/31/2017
☐ Electronic Funds Transfer EFT Payment Option Discussed (if available)	
☐ Change in Definition of Disability: (months) ☐ Own Job ☒ Own Occ ☒ Any Occ	24M
☒ Limits/Anticipated Closure: ☒ investigating/warned ☐ applied	Musc/Conn
☐ Other Coverages:	☐ PB ☐ LWOP ☐ HAB/ALB ☒ Other
☒ Return to work Plans/Voc Rehabilitation:	let him know about Temp Recovery and also Return to Work Incentive
☒ Explained who will be handling claim(Analyst, Claims Assistant, Allsup, etc):	
Additionally the following was discussed(e.g. upcoming medical treatment, anticipated return to work date,next steps):	

R 242

0210

Claimant requested to be referred to Allsup now. He's applied on his own at this time. The TX plan is for PT at this time. Doc told him that his back is "so bad" and further Sx may only worsen his issues.

Signature: Sheena Raab

Standard Insurance Company

Employee Benefits Department 800.628.9636 Tel. 800.457.9961 Fax
PO Box 2800 Portland OR 97208

State of South Carolina Long Term Disability Benefits Employee's Statement

Please type or print. (Form may be returned for unanswered questions.)

NOTE: Standard Insurance Company is acting only in an administrative capacity for the Basic LTD Plan.

1. CLAIMANT

Full Name: <u>Jerry Monroe Anselie, Jr.</u>		Social Security No. <u>[REDACTED]</u>	
Address: <u>555 Pearlie Road</u>		City: <u>Dillon</u>	State: <u>SC</u> Zip Code: <u>29536</u>
Phone No. <u>[REDACTED]</u>		Birthdate: <u>[REDACTED]</u>	
Sex: ☒ Male ☐ Female	Height: <u>[REDACTED]</u>	Weight: <u>[REDACTED]</u>	Dominant Hand: ☒ Right ☐ Left
Name of Spouse: <u>n/a</u>		Birthdate: <u>[REDACTED]</u>	
No. of Children under age 25: <u>n/a</u> Birthdate of Youngest: <u>[REDACTED]</u>			
Are you enrolled in the State Health Insurance Plan or HMO Plan provided for coverage under Basic LTD Plan? ☒ Yes ☐ No			
Are you enrolled in the Supplemental LTD Plan and have you paid the required premiums? ☒ Yes ☐ No			
Are you enrolled in another LTD Plan? ☐ Yes ☒ No Name of Carrier: <u>[REDACTED]</u>			
Address: <u>n/a</u>			
Did you receive a Certificate of Coverage or Insurance for each elective coverage? ☒ Yes ☐ No			
Insurance Benefits Guide? ☒ Yes ☐ No If no, please contact your employer to obtain a copy.			

2. EMPLOYMENT

Name of Agency/Institution: <u>South Carolina Dept of Motor Vehicles</u>	
Address: <u>PO Box 1488</u>	City: <u>Blythewood</u> State: <u>SC</u> Zip Code: <u>29016</u>
Phone No.: <u>843.896-9708</u>	
State your job title and describe your duties at work: <u>CDL License Examiner I Job duties: Administers CDL, Class A and Class M exams. Performs pre-trip inspections and all aspects of issuing drivers license, title and registration. Required to be outdoors during all seasons while standing, sitting, squatting, climbing, crawling, walking and talking for prolonged periods of time.</u>	
Is your disability work-related? ☐ Yes ☒ No	Date of Injury: <u>n/a</u>
Have you filed a Workers' Compensation claim? ☐ Yes ☒ No	If Yes, W.C. Claim No.: <u>n/a</u>
Last full day at work: <u>02-13-17</u>	
Date you became unable to work at your occupation as a result of disability: <u>02-14-17</u>	
Are you now working or have you worked at your occupation or any other occupation since the date of your injury? ☐ Yes ☒ No	
If yes, list names of employees, addresses, telephone numbers, and dates of employment: <u>n/a</u>	
Are you self-employed at any activity? ☐ Yes ☒ No Monthly Earnings: <u>n/a</u>	
Date you resumed part-time work: <u>n/a</u>	Work Phone: () Extension:
Date you resumed full-time work: <u>n/a</u>	Work Phone: () Extension:

3. SICKNESS (Please list all illnesses which contribute to your being unable to work at your occupation.)

Illness: <u>Degenerative disc disease (joints: spine, neck, hands, feet, back), asthma,</u>	Date First Noticed: <u>01-02-16</u>
<u>osteoarthritis, hallux rigidus (both feet), problems with concentration / focus</u>	Date First Noticed:
State what you believe caused your illness: <u>no known cause</u>	
Describe your symptoms: <u>chronic pain in lower back, neck, hands and feet; pain down right leg into foot; numbness right / leg foot</u>	
Have you ever had the same condition or a related illness before? ☐ Yes ☒ No Date:	

P. 2

No. 9496

HERALD OFFICE SYSTEMS

n. 27. 2017 11:17AM

Standard Insurance Company

Claim Administrator 800.628.9896 Tel 800.437.0961 Fax
PO Box 2800 Portland OR 97208

State of South Carolina Long Term Disability Benefits Employee's Statement

4. INJURY

Describe Injury: n/a

Cause of Injury: _____

Time, Date and Location of Injury: _____

5. PREGNANCY

Date you expect to cease work: n/a Expected delivery date: _____

Actual delivery date: _____ Expected return to work date: _____

Please indicate any foreseeable complications: _____

6. DISABILITY

Explain how your illness or injury prevents you from working at your occupation: Lack of focus and concentration due to medications. Not able to sit, stand, walk, crawl, or squat for prolonged periods. Not able to ride in or climb into, onto or under commercial vehicles

Do you feel a third party is responsible for your disability or has made your condition worse? ☐ Yes ☒ No

If yes, please explain, giving name of third party: n/a

Do you plan to bring a claim or lawsuit against this third party? ☐ Yes ☒ No

7. ATTENDING PHYSICIAN (List all physicians consulted for this injury or illness. Use separate sheet, if needed.)

Physician's Name: <u>Dr. Jason Highsmith</u> Specialty: <u>Neurosurgeon</u>	Phone No.: <u>(843) 553-7615</u> Fax No.: <u>(843) 553-1006</u>
Address: <u>9313 Medical Plaza Drive, Suite 305</u>	City: <u>N. Charleston</u> State: <u>SC</u> Zip Code: <u>29406</u>
Date First Consulted for this injury or illness: <u>02-02-16</u>	Date Last Consulted: <u>continuing</u>
Physician's Name: <u>Dr. Edwin Blitch</u> Specialty: <u>Podiatrist</u>	Phone No.: <u>(843) 553-2900</u> Fax No.: <u>(843) 553-4684</u>
Address: <u>9313 Medical Plaza Drive, Suite 301</u>	City: <u>N. Charleston</u> State: <u>SC</u> Zip Code: <u>29406</u>
Date First Consulted for this injury or illness: <u>04-12-17</u>	Date Last Consulted: <u>continuing</u>
Physician's Name: <u>Timothy Fitzgibbon</u> Specialty: <u>family doctor</u>	Phone No.: <u>(843) 774-7336</u> Fax No.: <u>(843) 774-3745</u>
Address: <u>503 North Sixth Ave</u>	City: <u>Dillon</u> State: <u>SC</u> Zip Code: <u>29536</u>
Date First Consulted for this injury or illness: <u>01-02-16</u>	Date Last Consulted: <u>continuing</u>

8. HOSPITAL

Hospital Name: Trident Medical Center Address: 9300 Medical Plaza Drive, N. Charleston SC 29406

From: 05-09-16 through: 05-10-16 Reason for hospitalization: back surgery

From: 03-06-17 through: 03-07-17 Reason for hospitalization: neck surgery

9. HISTORY List all illnesses or injuries for which you have received treatment over the past five years. Use separate sheet if needed.

Illness	Date	Medical Professional's Name	Complete Address & Phone No.
back / leg pain	01-02-16	Dr. Timothy Fitzgibbon	803 North Sixth Ave, Dillon SC 29536 843-774-7336
lower back surgery	05-09-16	Dr. Jason Highsmith	9313 Medical Plaza Drive 305, N. Chr SC 29406 843-553-7615
pain management	09-07-18	Dr. Richard Blake Kline	1500 Main Street, Conway SC 29526 843-438-8470
asthma	11-21-16	Dr. Mohamed Zein	805 Pamlico Hwy, Florence SC 29505 843-673-7520
neck surgery	03-06-17	Dr. Jason Highsmith	9313 Medical Plaza Drive 305, N. Chr SC 29406 843-553-7615
cataract both eyes	04-19-17	Dr. Neil Griffin	821 S. Long Dr #212, Rockingham, NC 28379 810-417-3845
foot surgery	04-28-17	Dr. Edwin Blitch	9313 Medical Plaza Drive 301, N. Chr SC 29406 843-553-2900

R 268

02-13

No. 9496 P. 3

HERALD OFFICE SYSTEMS

IN. 27. 2017 11:17AM

Standard Insurance Company

Employee Benefits Department 800.628.9896 TDD 404.437.0967 Fax
PO Box 2800 Portland OR 97208

State of South Carolina Long Term Disability Benefits Employee's Statement

10. DEDUCTIBLE INCOME

Have you applied for or are you receiving benefits from:	Applied		Receiving		Date Applied For	Amount Received		Effective Date
	Yes	No	Yes	No		Weekly	Monthly	
a. Social Security	☐	☒	☐	☒				
b. Workers' Compensation	☐	☒	☐	☒				
c. Retirement or Pension (Employee, SCRS, 401k, etc.) Please specify type _____	☐	☒	☐	☒				
d. Leave Pool or Shared Leave	☒	☐	☒	☐				
e. Third party income: weekly time loss, or from judgment, settlement or other award (related to current condition)	☐	☒	☐	☒				
f. Short term or long term disability benefits from another carrier	☐	☒	☐	☒				
g. Other: <u>n/a</u> (e.g., unemployment, vacation benefits, etc.)	☐	☒	☐	☒				

Please send copies of any letters or notices you have now or receive in the future which approve or deny benefits, in allow us to properly calculate disability payments.

11. VOCATIONAL (Complete the following and/or attach a resume.)

Education Level	Yes	No	If no, list grade attended
Grade School Graduate	☒	☐	
High School Graduate	☒	☐	
GED	☐	☒	
College Graduate	☒	☐	Degree B.S. Major Sociology
Post Graduate	☐	☒	Degree Major

Have you attended any trade schools or received other special training? ☐ Yes ☒ No
If yes, please describe _____

Licenses or certificates? ☒ Yes ☐ No
If yes, please describe: State of SC certificate to administer CDL, Class D, and Class M skills test
SC and NC Real Estate Sales License EXPIRE 6/30/17

Work Experience: (Complete the following starting with your most recent work experience.)

Job Title & Employer	SCRS Credited?	Dates of Employment	Duties	Last Salary
1. CDL License Examiner SC DMV		From: Oct 2014 To: present	Administers CDL Class D and Class M license examinations and counter work.	
2. Rental Reservations Assoc Williamson Realty		From: March 2012 To: Oct 2014	Vacation rental reservations by phone.	
3. self employed real estate sales associate		From: Oct 2006 To: March 2012	Answered phone and responded to inquiries about property listings.	
4. self employed Jerry's Used Cars		From: March 1993 To: Dec 2010	Purchased automobiles to resale to the general public and complete paperwork.	
5.		From: To:		

Acknowledgment

I hereby certify that the answers I have made to the foregoing questions are both complete and true to the best of my knowledge and belief. I acknowledge that I have read the applicable fraud notice on page 6 of this form.

SIGNATURE

R 269

DATE

0214

NO. 9490 P. 4

HERALD OFFICE SYSTEMS

n. 27. 2017 11:18AM

Standard Insurance Company

Employee Benefits Department 800.628.9696 Tel 300.437.0961 Fax
PO Box 2800 Portland OR 97208

State of South Carolina Long Term Disability Benefits Employer's Statement

Please type or print. Form may be returned for unanswered questions.

NOTE: Standard Insurance Company is acting only in an administrative capacity for the Basic LTD Plan.

1. EMPLOYEE

Full Name: <u>Terry M. Arnette, Jr</u>	Social Security No.: <u>[REDACTED]</u>
Address: <u>555 Pearlview Rd</u>	City: <u>Dillon</u> State: <u>SC</u> Zip Code: <u>29536</u>
Phone No.: <u>[REDACTED]</u>	Birthdate: <u>[REDACTED]</u>

2. INFORMATION

Job Title: <u>License Examiner I (CDL)</u>	Date Employed: <u>10/2/14</u>
(Please attach a copy of position description.)	
Employee's work location (agency/institution): <u>SC Dept. Motor Vehicles-Bennettsville</u>	Group No.: <u>RL16</u>
Employee's coverage effective date: ☒ State Basic LTD <u>11-1-14</u>	☒ Supplemental LTD <u>11-1-14</u> ☒ 90-day ☐ 180-day Benefit Waiting Period
Is employee currently insured with another carrier for disability coverage? ☐ Yes ☒ No	Carrier: _____
Did employee receive a certificate of coverage for each appropriate plan? ☐ Yes ☐ No ☐ Don't Know	(Please forward Certificate of Coverage for State Basic LTD plan for covered employee when filing disability claim.)
Last day of work before disability commenced: <u>2/13/17</u>	
Date employee returned to work after disability ended: _____	
Is medical condition due to employment? ☐ Yes ☒ No ☐ Undetermined	
Workers' Compensation claim? ☐ Yes ☒ No	Carrier Name: _____
Claim No.: _____	Address: _____
Have you considered allowing the employee to work in another occupation, or to modify and/or alter the job duties of the current occupation?	
☐ Yes ☒ No Please explain: _____	
On FMLA? ☒ Yes ☐ No	Effective date: <u>2/8/17</u> through: <u>5/9/17</u>
Is employee terminated? ☐ Yes ☒ No	Effective: _____ Reason: _____
Is employment scheduled for termination? ☐ Yes ☐ No	Effective: _____ Reason: _____
Hours worked per week before disability commenced: <u>40</u>	
Date sick leave benefits paid through: <u>5/11/17</u>	Salary continuation from: _____ through: _____
Is Claimant on LWOP? ☒ Yes ☐ No	Effective: <u>5/12/17</u> through: <u>Current</u>

3. SALARY (Earnings as of last day worked before disability commenced)

Regularly paid <u>40</u> hours per week, excluding overtime.
Please check ONE:
☒ Basic Yearly Earnings \$ <u>30,295.00</u>
☐ Basic Monthly Earnings \$ _____ for _____ months per year
☐ Basic Hourly Earnings \$ _____ for _____ months per year OR _____ days per year
☐ Basic Contract Earnings \$ _____ length of contract: _____
☐ Commissions (Please attach list of commissions paid for the period specified in your Group Policy)
☐ Shift Differential ☐ Bonuses
Date of last increase: <u>6/2/16</u> Earnings prior to increase: \$ <u>29,342.00</u>
Yearly employment schedule, indicate: ☐ 12-month period ☐ Other (i.e. contract days, 9 mos., etc.): _____

Standard Insurance Company

Employee Benefits Department 800.628.9696 Tel 800.437.0961 Fax
PO Box 2800 Portland OR 97208

State of South Carolina Long Term Disability Benefits Employer's Statement

4. DEDUCTIBLE INCOME

Is employee eligible for or now receiving benefits from:	Applied		Receiving			Date of Application	Amount		Effective Date
	Yes	No	Yes	No	Don't Know		Weekly	Monthly	
a. Optional Retirement Plan Acct. No.: _____ ☐ TIAA/CREF or <u>N/A</u> ☐ Other: _____	☐	☒	☐	☐	☐				
b. PORS	☐	☒	☐	☐	☐				
c. SCRS	☐	☒	☐	☐	☐				
d. GARS	☐	☒	☐	☐	☐				
e. JRS	☐	☒	☐	☐	☐				
f. Social Security	☐	☒	☐	☐	☐				
g. Workers' Compensation Claim No.: _____	☐	☒	☐	☐	☐				
h. Leave Pool or Shared Leave	☒	☐	☒	☐	☐	4/17/17			*** paid 4/17 thru 5/15/17
i. Other: _____ (e.g. short-term disability insurance, another long-term disability plan, unemployment or union benefits, etc.)	☐	☒	☐	☐	☐				

If this employee does not belong to SCRS, please provide our office with the name and telephone number of the contact person for this employee's retirement plan.

Person to contact: _____ Telephone: (_____) _____

5. TAX INFORMATION

Is this employee subject to Social Security taxes? ☒ Yes ☐ No

If yes, what are the employee's year-to-date Social Security wages? _____

If the employee has Supplemental LTD Coverage:

What percentage of the Supplemental LTD premium does the employer pay? 0 %
the employee pay? 100 %

Are Supplemental LTD premiums paid with pre-tax dollars under a Section 125 or cafeteria plan? ☐ Yes ☒ No

Has this Supplemental LTD contribution percentage changed within the last three years? ☐ Yes ☒ No

Are employer paid premiums included in the employee's salary? ☐ Yes ☒ No

Employer's Federal Tax ID Number: 57-6000286

*** 1747.20 paid for 15 days of sick leave from Leave Pool.

6. ATTACHMENTS (Please check and attach copies of the following)

☒ Employee's current W-4 form, include withholding allowances

☒ EBS printout of the subscriber's coverage (using the subscriber inquiry - print the information displayed in the coverage tab).

☒ Job class specification and position description

☒ Employment Application or Resume

☐ Deductible Income Documents (Social Security, Workers' Compensation, SCRS, etc.) if available

7. EMPLOYER REPRESENTATIVE COMPLETING THIS FORM

Employer: SC Dept. Motor Vehicles Phone No.: 803-896-9703 Policy No.: 621144

Address: P.O. Box 1498 City: Rutherford State: SC Zip Code: 29616

Acknowledgment

I hereby certify that the answers have made to the foregoing questions are both complete and true to the best of my knowledge and belief. I acknowledge that I have read the applicable fraud notice on page 16 of this form.

Signature: [Signature] Date: 5/31/17

Prepared by: _____ Title: _____

Phone No.: (803) 896-9703 Fax No.: (803) 896-9712

R 273



Exam Coordinators Network

A division of Genex Services, LLC

PEER REVIEW

REFERRAL DATE: 09/23/20

REVIEWER: David M. Burke, MD

CLAIMANT NAME: Jerry Arnette Jr.

SPECIALTY: Neurology

CLIENT: The Standard Insurance Co.

ECN CASE NO.: 143079-3

CLAIM STATUS: DISPUTED

CLAIM #: 00FC6930

CASE MANAGER/SBA: Hannah Litscher

ANALYST: Hannah Litscher

DATE OF REVIEW: 10/2/20

List of Medical Records:

I reviewed all records provided to me including, but not limited to, the following:

- Jason M. Highsmith, MD / Neurosurgery, extending from 2/2/2016 to 7/31/2020
- Mark L. Greenslit, MD / Diagnostic Radiology, on 5/31/2016
- Aron D. Rosenthal, MD / Diagnostic Radiology, on 12/20/2016
- Richard B. Kline, MD / Pain Medicine, extending from 1/2/2017 to 5/4/2017
- SOAP Notes, on 1/2/2017
- McLeod Medical Center – Dillon / Physical Therapy, extending from 1/10/2017 to 1/25/2017
- Lab Records, on 2/14/2017, 5/23/2017, 1/22/2020
- Edwin L. Blitch IV, DPM / Podiatry, extending from 4/10/2017 to 7/31/2020
- Neil B. Griffin, MD / Ophthalmology, extending from 4/19/2017 to 5/19/2017
- Edward M. Tavel Jr., MD / Pain Management, extending from 5/31/2017 to 6/25/2017
- Joseph M. Mullaney, MD / Diagnostic Radiology, on 6/13/2017
- Deepak Chowdhary, MD / Gastroenterology, on 7/5/2017
- John W. French, MD / Ophthalmology, extending from 7/7/2017 to 11/30/2017
- Shawn P. McKay, MD / Otolaryngology, extending from 7/18/2017 to 12/21/2017
- James A. Thesing, DO / Diagnostic Radiology, on 7/21/2017
- ECG Records, on 7/24/2017
- Anil Om, MD / Cardiology, on 8/11/2017
- Case Notes from Carol Short / Case Manager, on 8/21/2017, 7/18/2018, 4/16/2019
- Medical Referral, on 8/17/2017, 4/10/2019, 2/13/2020
- Venugopal Govindappa, MD / Nephrology, extending from 8/28/2017 to 5/5/2018
- Kinsey Knight, PA-C / Physician Assistant, extending from 8/31/2017 to 10/2/2017
- Sushil K. Singh, MD / Sleep Medicine, R-2755/2017

- Anna F. Fakadej, MD / Ophthalmology, on 10/9/2017
- Timothy A. Fitzgibbon, MD / Family Medicine, extending from 1/18/2018 to 12/27/2018
- Hailu M. Kebede, PA-C / Physician Assistant, on 2/8/2018
- Mohamad Zein, MD / Pulmonology, on 2/21/2018
- Prescriptions, on 2/27/2018
- John H. Lucas IV, MD / Neurology, on 3/12/2018
- Mary B. Lewis, MD / Diagnostic Radiology, on 5/26/2018
- H. Paul Hatten, Jr., MD / Diagnostic Radiology, on 7/26/2018
- Ashley E. Hart, MD / Family Medicine, Case Reviewer, extending from 8/28/2018 to 5/3/2019
- Stephan K. Stamato, MD / Diagnostic Radiology, extending from 9/28/2018 to 10/1/2018
- Richard D. Guyer, MD / Orthopedic Surgery, on 11/7/2018
- Christopher S. Fukuda, MD / Urology, extending from 11/20/2019 to 1/22/2020

Summary of Contact with Treating Physician or Attempt to Contact:

-Dialed Dr. Highsmith using 843-510-0727 10/1/20 11:46 AM to give him an opportunity to provide additional information regarding his patient - Left a message at Carolina Neurosurgery with secretary/medical assistant, Zoey. I will submit an addendum if I receive a return call.

Opening Synopsis:

The claimant is a 51-year-old male who ceased work 2/13/2017 reportedly due to neck, mid and low back pain and radiculopathy. He notes having chronic back pain, tingling in the feet and legs, decreased sleep, fatigue and muscle aches as a result.

Review of Records:

5/31/16 X-rays L-spine: moderate degenerative disc disease from L3-4 through L5-S1. Facet arthritis from L1-2 through L5-S1, appearing most developed at L4-5.

6/13/17 X-rays L-spine: degenerative change greatest at the lumbosacral junction with no instability.

3/12/18 EMG/NCS (due to chronic LBP that radiates down the RLE s/p lumbar surgery x 1): chronic L5 and S1 radicular changes.

7/26/18 MRI brain: normal.

9/28/18 MRI L-spine: moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate.

3/7/19 OVN: Jason M. Highsmith, MD / Neurosurgery: The claimant has a h/o previous arthroplasty C5-7 and lumbar decompression L4-5 for foot drop, who presents with neck, mid and low back pain, as well as pain in the elbows bilaterally and legs bilaterally diffusely to the right ankle. PE: 5/5 strength, intact sensation, and 2/4 reflexes throughout; tenderness of the cervical paraspinal muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; **R 276**

trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited ROM; negative SLR.

9/8/19 OVN: Jason M. Highsmith, MD / Neurosurgery: The claimant presents with neck, mid and low back pain; mid back pain is radiating into the paraspinous muscles; most of the pain is at the inferior portion of the scapula radiating down. Also, he reports low back and right leg pain radiating into the dorsal right foot s/p L4-5 decompression. PE: 5/5 strength 2/4 reflexes throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinous muscles with muscle spasms; trigger points in the right and left splenius capitis, trapezius, and rhomboids; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the right and left quadratus lumborum; tenderness in the midline from L3-S1 with limited ROM; negative SLR.

11/20/19 OVN: Christopher S. Fukuda, MD / Urology: The claimant presents with CKD and herniated disk with chronic LUTS (Lower urinary tract symptoms) thought to be attributable to neurogenic bladder and mild prostatism. He has both obstructive voiding symptoms with a weakened stream and large residuals. VUD studies on 3/23/19 revealed sensory urgency with a stable and compliant bladder with good capacity; however, bladder emptying with markedly impaired and hypotonic bladder (thought to be due to herniated disk). PE: normal motor and sensory function; full ROM of the cervical, thoracic, and lumbar spine.

1/22/20 OVN: Christopher S. Fukuda, MD / Urology: Currently, he is on Urecholine and Flomax and feels that he is voiding satisfactorily. PE: normal motor and sensory function; full ROM of the cervical, thoracic, and lumbar spine.

7/31/20 OVN: Edwin L. Blitch IV, DPM / Podiatry: The claimant presents with left foot hallux joint pain and right foot numbness in right hallux that moves through his right foot and leg. PE: normal sensation and DTRs in the bilateral lower extremities; good muscle strength in all prime movers of the foot/ankle; crepitus upon ROM; the 1st ray motion is diminished with pain.

7/31/20 OVN: Jason M. Highsmith, MD / Neurosurgery: The claimant presents with neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE: 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinous muscles; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SLR.

Summary of Pertinent Information:

The claimant is a 51-year-old male who ceased work 2/13/2017 due to neck, mid and low back pain and radiculopathy. Supported diagnoses include lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate.

Per Dr. Highsmith on 7/31/20, the claimant reports neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE: 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinous muscles; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SLR.

Answers to Questions:

- 1. Please list the claimant's medically supported diagnoses as of and continuing beyond 6/1/2020.**

Lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain.

- 2. Are any of the diagnoses caused or contributed to by any of the following: fibromyalgia, reflex sympathetic dystrophy or myofascial pain, arthritis other than rheumatoid or psoriatic arthritis, diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue, or sprains or strains of the joints or muscles?**

Yes, the diagnoses are caused or contributed to by diseases or disorders of the cervical or lumbosacral back and its surrounding soft tissue.

- 3. If yes to #2, and you exclude all limitations/restrictions caused by those conditions, is impairment from fulltime work activities within a reasonably consistent, 40 hr./week work schedule supported after 6/1/20? Please explain why or why not, noting which conditions, if any, are causing which limitations and restrictions?**

If those conditions are excluded, there is no evidence of impairment from fulltime work activities within a reasonably consistent, 40 hr./week work schedule supported after 6/1/20.

The claimant is a 51-year-old male who ceased work 2/13/2017 due to neck, mid and low back pain and radiculopathy. Supported diagnoses include lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. Per Dr. Highsmith on 7/31/20, the claimant reports neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE: 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinous muscles; tenderness in the midline from C3-7 with limited ROM; negative Spurling's;

tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SLR. Thus, R/Ls would be supported from these conditions; however, if excluded, there is no evidence of other impairment.

- 4. Are any of the claimant's diagnoses caused, contributed to and/or considered any of the following as of 6/1/20 and continuing beyond? Neurologic diseases; asthma or allergy-induced reactive lung disease; demyelinating diseases, lupus, rheumatoid or psoriatic arthritis; herniated discs with neurological abnormalities documented by EMG and CT or MRI; radiculopathies documented by EMG; spondylolisthesis, grade II or higher, myelopathies and or myelitis?**

Yes, some of the claimant's diagnoses are caused, contributed to and/or considered neurologic diseases; demyelinating diseases, herniated discs with neurological abnormalities documented by EMG and CT or MRI; radiculopathies documented by EMG as of 6/1/20 and continuing beyond.

- 5. If so, and any such conditions result in any type of limitations and restrictions as of 6/1/20 and continuing beyond, which would impair him from performing full-time work activities, please list those conditions and the limitations and restrictions they cause. Again, please explain the medical information/reasoning that supports your conclusions in detail.**

No. Such conditions would not result in any type of limitations and restrictions as of 6/1/20 and continuing beyond, which would impair him from performing full-time work activities. However, from 6/1/20 and continuing beyond, the impairing conditions that meets the criteria in question #4 include lumbar radiculopathy, L5-S1, axial neck pain, axial low back pain, and axial mid back pain, which would require R/Ls. However, this would not preclude full-time work activities. The claimant is a 51-year-old male who ceased work 2/13/2017 due to neck, mid and low back pain and radiculopathy. Supported diagnoses include lumbar radiculopathy; axial neck pain; axial low back pain; axial mid back pain. 3/12/18 EMG/NCS revealed chronic L5 and S1 radicular changes. 9/28/18 MRI L-spine revealed moderate degenerative disease of the lumbar spine; multilevel NF stenosis ranging from mild to mild/moderate. Per Dr. Highsmith on 7/31/20, the claimant reports neck, mid and low back pain. His neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he has neck stiffness at C4-5. His biggest complaint is mid thoracic pain radiating to the chest wall. He has multiple thoracic disruptions. He notes increased numbness/tingling/weakness as well as pain in the right lateral foot (L5-S1). PE: 4/5 strength with right dorsiflexion and hip flexion; otherwise 5/5; 2/4 DTRs throughout; diminished sensation in the dorsal right foot distally, otherwise intact; tenderness of the cervical paraspinal muscles; tenderness in the midline from C3-7 with limited ROM; negative Spurling's; tenderness of the lumbar muscles with muscle spasms; trigger points in the left quadratus lumborum; tenderness in the midline from L2-S1 with limited ROM; negative SLR. Thus, R/Ls would be supported from lumbar radiculopathy, axial neck pain, axial low back pain, and axial mid back pain, as exams document 4/5 strength with right dorsiflexion and hip flexion, diminished sensation in the dorsal right foot distally, tenderness in the midline from C3-7 with limited ROM, and tenderness in the midline from L2-S1 with limited ROM.

As of 6/1/20 and continuing beyond, with re-evaluation on or around 1/1/2021:

Sitting: constantly (30 minutes at a time for up to 8 hours/day)-frequently change positions every 30 minutes with a 1-2 minute "stand and stretch" break.

Standing: frequently (30 minutes at a time for up to 4 hours/day)

Walking: frequently (30 minutes at a time for up to 4 hours/day)

Lifting/Carrying: occasionally up to 20 lbs.

Pushing/Pulling: occasionally up to 40 lbs.

Climbing stairs: frequently

Balancing: frequently

Stooping: frequently

Kneeling: frequently

Crouching: frequently

Crawling: occasionally

Reaching: overhead - frequently

desk level - constantly

below waist activities - frequently

Use lower extremities for foot controls: occasionally RLE; unrestricted LLE

Fingering/handling: unrestricted BUE

Simple and firm grasping: unrestricted BUE

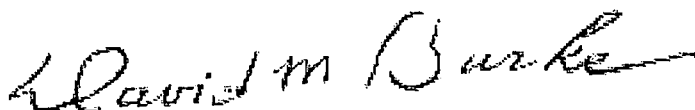
The claimant's abilities are sustainable on a full-time basis with provided R/Ls.

Disclaimer:

"I, David Burke, MD am a physician duly licensed to practice medicine in the State of NY. I am an independent contractor and I am paid to review disability claim files and render medical opinions regarding the records contained herein. I am not responsible for deciding whether a claimant is entitled to insurance benefits. My role is to provide objective medical opinions to The Standard Insurance Co. Benefits personnel.

I do not receive additional compensation in the form of bonuses or incentive pay of any kind. My compensation does not depend upon the outcome of my reviews, the substance of my medical opinions, or any factor other than the number of hours it takes to review a file and provide an analysis.

The Standard Insurance Co. has never expressed to me any requirements or expectations regarding the ultimate conclusions or opinions I provide other than that I provide a well-reasoned professional opinion based on thorough review of all relevant and available information. I do not believe that either my compensation or my continued professional relationship with The Standard Insurance Co. is contingent in any way on the ultimate conclusions or opinions that I provide."



David Burke, MD

ABPN Board Certification Neurology

Medical License ME MD16798; NY 188103

10/3/20

DAVID M BURKE MD
Attending Neurologist
99-Campus Avenue
Lewiston Maine
Office: 207-777-4455
E-Mail: DMBURKE007@gmail.com

CURRICULUM VITAE

Personal Data:

Born: March 2, 1958
Race: Caucasian
Religion: Catholic
Marital Status: Married
Citizenship: US

Education:

Post Graduate Training:

Columbia Presbyterian Hospital Manhattan.

Fellowship in Epilepsy

Acquired expertise in Management of intractable epilepsy, Neurological and electrophysiological evaluation of Pre-Epilepsy surgery patient (CCTV/EEG, Corticography, Brain Mapping, Wada Tests.)

St. Vincent's Hospital Manhattan (153 West 11th Street, New York, NY 10011)

1-Completed "Internal Medicine" Internship (1/ 1989 through 12/ 1989)

2-Completed: "Neurology" residency in 12/ 1992.

Named "Chief Resident " in my senior year.

(Program Director Dr. Masdeu.)

St. George's University School of Medicine (Grenada, West Indies.)

MD 12/1988

Faculte Medicale de Paris. Cochin (Paris, France)

Completed first year of medical school 1982-1983.

Grinnell College (Grinnell, Iowa)

BA. General Sciences. 1980

Academic Appointments

Columbia University Appointment: Post Doctorate Clinical Fellow Neurology/Epilepsy:
(1/1992-6/1994) Neurological Institute (Dr. T. Pedley)(710 th Street, New York, NY 10032-2699)

Columbia Presbyterian Hospital Manhattan: Clinical Assistant Neurologist:(1/1993-6/1994)
(Dr. T. Pedley)
Clinical Supervisor, St. Clare Hospital, and Manhattan: (1/1993-1/1997) (419 West 51st Street, New York, NY 10019)
Clinical Assistant Neurologist/Épileptologist: New York Medical College: 06/1994 through 1/1997
Director of EEG Laboratory (Metropolitan and Lincoln Hospital): 06/1994 through 06/1997)
.Associate Director of Neurology St. Vincent's Hospital and Health Center

Clinical Assistant Professor in Neurology. New York Medical College: 02/1997 through Present.

Professional Societies:

American Academy of neurology
American Electrophysiology Society

American Epilepsy Society
American Medical Association

Merrell-Dow Pharmaceutical Cincinnati, Ohio

1-Intern, 1986-1987: Macromolecular Biology Department, as a researcher in the field of Molecular Biology.

Publication:

Bilateral Acoustic Neurofibromatosis and normal brainstem auditory evoked potentials: A case report.
Poster presentation in American Electroencephalographic Society Annual Meeting 12/1991 Poster presentation
Wendham Franklin Plaza, Philadelphia, Pennsylvania.

New York State License Number: 188103

DEA: BB304473

Present Position:

Staff Neurologist St. Mary's Hospital, Lewiston Maine
Chief of Neurology St. Vincent's Mid Town (formerly called St. Clare's Hospital: 07/1/1996 through 2004
Chief of Neurology Terrence Cardinal Cooke Nursing Home: 06/ 1998 through Present
Visiting Lecturer in Neurology: St. Georges University School Of Medicine Grenada WI
Terrence Cardinal Cooke Nursing Home: Section Chief of Neurology, Consultant Neurology
DeWitt Nursing Home Consultant Neurologist

Hospital Position:

Chairman of the Credential Committee ST. Vincent's Midtown (St. Clare's Hospital) 02/05

President of the medical board St. Vincent's Midtown. (St. Clare's Hospital) (Elected position 2002 through 2004) Chairman of the Credential Committee at St. Vincent's Midtown Hospital
Involvement with hospital policies for JCAH

Started the acute stroke unit and the TPA stroke team for acute stroke care

Private Practice:

Epileptologist and General Neurology Consultant Neurologist: St Mary's General Hospital in Lewiston Maine. Started 07/ 2005

Boards: Diplomate of the American Board of Psychiatry and Neurology 05/1997 Certificate NO 44028
Re-Certification: 05-2007 through the 12/31/2017
Re-Certification: 05-2016 through the 05/2026

Others:

Classical Pianist
Photographer (Exhibit Photograph at New York Galleries specializing in Large Format Photography)
Golf
Rodeo fan

Awards:

Lawrence Meyers, MD Award (St. Clare's Hospital and Health Center)"
(Award for best physician of the year voted by my peers)
Award for being President of the Medical Staff for two consecutive terms from 2001 through 2004 (plaque)
Top Physicians (guide to America's top physicians 2004-2005 (Consumers Research Council of America

Locum Work: Dean Clinic, in Madison, WI, St. Mary's Hospital, 7 to 10 days as a Hospitalist between 2016 through 2017. Chairman of Neurology: Mary Doninski MD

08/15/2020 08:40

(FAX)

P.002/003

Carolina Neurosurgery & Orthopedics, Inc.

161 Medical Circle
West Columbia, SC 29169
Phone: (803) 764-1813
Fax: (843) 474-0712

2910 Tricom Street, Suite 201
North Charleston, SC 29406
Phone: (843) 510-0727
Fax: (843) 474-0712

FOLLOWUP NOTE**Patient Name:** Jerry Arnette Jr.**Record #:** 175099**Date:** 07/31/2020**Date of Birth:** [REDACTED]

Subjective: The patient returns today in followup from his neck, mid and low back pain. He reports his neck pain has improved since undergoing cervical arthroplasty as well as radicular arm pain, but he is having some neck stiffness at C4-5. His biggest complaint remains mild thoracic pain radiating onto the chest wall. He has multiple thoracic disc disruptions. He is still requiring long-term pain medicine. He has noticed some increasing numbness and tingling as well as pain in the right lateral foot consistent with the L5-S1 dermatomal distribution as well as some right leg weakness, which is somewhat worsened, but comes and goes.

Review of Systems:

General: Negative for dizziness, chills, fevers or sweats.

Musculoskeletal: Significant as in HPI.

Genitourinary: Denies blood in urine, frequent urination, or lack of bowel or bladder control. Denies any sexual dysfunction.

Skin: Denies bruising easily, itching or rashes.

Gastrointestinal: Denies nausea, vomiting or indigestion.

Cardiovascular: Denies chest pain.

HEENT: Denies blurry vision, bleeding gums, double vision, earaches or hoarseness.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac and other nonsteroidal anti-inflammatories that are contraindicated because of his kidney disease.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 212 pounds. HEENT: Head is normocephalic. Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Strength test is 4/5 with right dorsiflexion and hip flexion, otherwise 5/5 throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign. Sensation is diminished in the right dorsal foot and lateral right foot, otherwise intact to pinprick and light touch throughout. The patient has a well-healed cervical incision. Physical exam of the cervical spine reveals mild tenderness to palpation of the cervical paraspinous muscle with no palpable muscle spasm present. No trigger points are

09/15/2020 08:40

(FAX)

P.003/003

Patient Name: Jerry Amette Jr.
Record #: 175099
Date: 07/31/2020
Page 2

identified in the right and left splenius capitis, trapezius and rhomboids. The patient is minimally tender at the midline from occiput to C7 with normal range of motion and no pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. Physical exam of the thoracic spine reveals moderate tenderness to palpation of the thoracic paraspinal muscles with palpable muscle spasms present. Trigger points are identified in the right and left trapezius and latissimus dorsi. The patient is moderate to severely tender at the midline from T3 to T8 with limited range of motion and pain at the endpoints. Physical exam of the lumbar spine reveals moderate to severe tenderness to palpation of the lumbar paraspinal muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient has moderate tenderness at the midline from L2 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain with right lower extremity radiculopathy.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Status post L4-5 posterior decompression.
5. Axial mid back pain.
6. Chronic L5-S1 radicular changes.

Treatment/Plan: Unfortunately, the patient could not tolerate anti-inflammatories very, so I am recommending he try some more naturopathic regimens. He remains a candidate for pain management. He is having some increasing radicular symptoms and I suspect his L5-S1 level is becoming symptomatic. We discussed that he may require surgical decompression at that level.

Jason M. Highsmith, M.D., FACS
Board Certified In Neurological Surgery
JMH/pmt

Dictated but not proofread

01/20/2020 07:37

(FAX)

P.003/005

**STATEMENT OF
DR. JASON HIGHSMITH**

1. I am medical doctor licensed to practice in the state of South Carolina, and I practice in Charleston, South Carolina. I am board certified in Neurosurgery. I have been asked by my patient, Mr. Jerry Arnette, to provide this statement to be used in his quest for disability insurance benefits. This statement is based upon my medical education, experience, my specific knowledge of Mr. Arnette's medical problems and treatment history.

2. Mr. Arnette suffers from radiculopathy. Subjectively, as a result, he suffers:

- a) chronic back pain;
- b) tingling in feet and legs;
- c) radiating pain in feet and legs;
- d) decreased sleep;
- e) fatigue;
- f) muscles aches.

His activities are limited as follows:

- i) He has difficulty performing some activities of daily living;
- ii) He cannot perform any activity for an extended period of time;
- iii) He cannot sit, stand, or walk for prolonged periods of time;
- iv) Because of his medical conditions it is difficult for him to maintain a consistent schedule;
- v) He cannot lift more than 10 lbs.

Mr. Arnette's subjective symptoms are consistent with his diagnosed conditions.

3. Mr. Arnette is treatment compliant, and he currently takes Amlodipine, Gabapentin, Allopurinol, Bethanechol, Cyclobenzaprine, Tamulosin, Pantoprazole and Tramadol.

01/20/2020 07:37

(FAX)

P.004/005

4. It is my understanding from Mr. Arnette that his disability insurance provider has terminated benefits asserting that his disability claim is limited to twenty-four months.

5. I have been advised that the disability policy in question contains a definition of disability as follows:

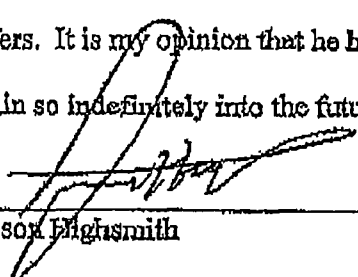
B. Any Occupation Definition of Disability

During the Any Occupation Period, you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 65% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

6. It is my opinion, based upon my medical education and experience and based upon my specific knowledge of Mr. Arnette's problems and treatment history that he is and has been disabled, as a result of his radiculopathy, from performing any occupation, consistent with the definition of disability above. I render my opinion based upon Mr. Arnette's diagnosis of radiculopathy and the subjective symptoms he suffers. It is my opinion that he has been so disabled since February 2017 and that he will remain so indefinitely into the future.


Dr. Jason Highsmith

Summary View for ARNETTE, JERRY JR | Account Number: e856355

Page 1 of 7

McLeod**Physician Associates****ARNETTE, JERRY JR**

50 Y old Male, DOB: [REDACTED]

Account Number: e856355

555 PEARLIE RD, DILLON, SC 29536-6045

Home: [REDACTED]

Guarantor: ARNETTE, JERRY JR Insurance: AETNA

Payer ID: 60054

PCP: TIMOTHY FITZGIBBON, MD

Appointment Facility: McLeod Urology Associates

01/22/2020

follow up progress note: Christopher S. Fukuda, MD

Current Medications**Taking**

- Vitamin Dg 5000 UNIT Tablet 1 tablet Orally Once a day
- All meds per pt list
- Pantoprazole Sodium 40 MG Tablet Delayed Release 1 tablet Orally once a day
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally Once a day
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Centrum - Tablet 1 tablet Orally Daily
- Cyclobenzaprine HCl 10 MG Tablet 1 tablet as needed Orally as needed
- Allopurinol 100 MG Tablet 1 tablet Orally twice a day
- Pantoprazole Sodium 40 mg tablet delayed release 1 tablet Orally Once a day
- Amlodipine Besylate 10 MG Tablet 1 tablet Orally once a day
- Gabapentin 300 MG Capsule 1 capsule Orally once a day
- Tramadol HCl 50 MG Tablet 1 tablet as needed Orally Q 8 hrs PRN
- Tamsulosin HCl 0.4 MG Capsule 1 capsule Orally Twice a day
- Unknown
- Montelukast Sodium 10 MG Tablet 1 tablet in the evening Orally Once a day
- Docusate Sodium 100 MG Capsule 1 capsule as needed Orally prn
- Turmeric, Capsule 1 capsule Orally once a day
- Oxycodone-Acetaminophen 5-325 MG Tablet 1 tablet as needed Orally prn
- ProAir HFA (Albuterol Sulfate HFA) 108 (90 Base) MCG/ACT Aerosol Solution 2 puffs as needed Inhalation every 4 hrs
- breo Ellipta (Fluticasone Propionate-Vilanterol) 200-25 MCG/INH Aerosol Powder Breath Activated 1 puff Inhalation Once a day
- Lytica (Pregabalin) 50 MG Capsule 1 capsule Orally Twice a day
- Hydrochlorothiazide 25 MG Tablet 1 tablet in the morning Orally prn
- Cephalexin 500 MG Tablet 2 tablets Orally BID

Reason for Appointment

1. F/U

History of Present Illness**Constitutional:**

Patient is a 50-year-old male with stage III CKD and herniated disc with chronic LUTS thought to be attributable to a neurogenic bladder and mild prostatism who returns in follow-up to review his voiding situation. Patient has both obstructive voiding symptoms with a weakened stream and large residuals. Cystoscopy from 10/24/2018 revealed bilobar prostatic hypertrophy visually obstructing over only 1.0 cm length with 1+ bladder trabeculation. VUD studies on 3/23/2019 revealed sensory urgency with a stable and compliant bladder with good capacity (570 cc) however bladder emptying with markedly impaired with a hypotonic bladder. The patient had sustained detrusor contractions only 15 to 18 cm H₂O a large residual of 300 cc. The cause for his hypotonic bladder was — thought to likely be due to his herniated disc. —

Currently on a regimen of Urecholine 50 mg twice a day and Flomax twice a day he feels that he is voiding satisfactorily albeit with a weakened urine stream. Uroflowmetry study on 11/20/2019 revealed peak flow rate of 16 cc/s with voided volume of 765 cc and a postvoid residual of 60 cc.

Patient previously was intolerant of Urecholine 50 mg 4 times daily.

Vital Signs

Wt 219, Wt-kg 99.34, Ht 74, Ht-cm 187.96, BMI 28.11, HR 76, BP 132/83 mm Hg, BSA 2.28 M.

Examination**General Examination:**

GENERAL APPEARANCE: no acute distress, pleasant, cooperative.

EYES: + red reflex bilaterally, conjunctiva clear, extra ocular muscles intact (EOMI) bilaterally.

HEENT: HEAD: ATNC, EARS: normal hearing, NOSE: clear rhinorrhea, THROAT: dentition normal.

ORAL CAVITY: clear, no significant abnormality, mucosa moist.

CARDIOVASCULAR: normal S1S2, regular rate and rhythm, no murmurs.

Patient: ARNETTE, JERRY JR DOB: [REDACTED] Progress Note: Christopher S. Fukuda, MD 01/22/2020

- Prednisone 5 MG Tablet 2 tablets Orally Once a day
- Meloxicam 15 MG Tablet 1 tablet Orally Once a day
- Azelastine-Fluticasone 137-50 MCG/ACT Suspension 1 puff in each nostril Nasally Twice a day
- Fluticasone Propionate 50 MCG/ACT Suspension 1 spray in each nostril Nasally Once a day
- Losartan Potassium 50 MG Tablet 1 tablet Orally Once a day
- Carafate (Sucralfate) 1 GM Tablet 1 tablet on an empty stomach Orally Twice a day
- Levbid, Hyoscyamine Sulfate ER 0.375 MG Tablet Extended Release 12 Hour 1 tablet Orally every 12 hrs prn
- Bethanechol Chloride 50 MG Tablet 1 tablet Orally 4 times a day
- Ergocalciferol 50000 UNIT Capsule 1 capsule Orally weekly
- Bactrim DS (Sulfamethoxazole-TMP DS) 800-160 MG Tablet 1 tablet Orally Twice a day
- Pt did not bring meds today.
- Hyoscyamine 0.375 MG Capsule Extended Release 12 Hour 1 capsule Orally BID, Notes: Stomach problems
- Medication list reviewed and reconciled with the patient

Part Medical History

- Hematochezia.
- Hemorrhoids.
- GERD (gastroesophageal reflux disease).
- Hiatal hernia.
- Antial ulcer.
- Abdominal pain.
- Abdominal bloating.
- Dark stools.
- Chest pain.
- Back disorders.
- Hypertlipidemia.

Surgical History

- Back surgery (L4-L5) 5/2016
- Wisdom teeth
- EsophagoGastroDuodenoscopy (EGD) 7/2016
- Colonoscopy 07/15/2016
- Neck surgery 3/2017
- Cataract surgery (Left eye) 5/2017
- Debridement of left great toe 4/2017
- Nose & Cyst 07/2017
- EGD 08/22/2018
- Left Breast lipoma removed-benign fatty growth 06/2018
- hemorrhoidectomy 11/2018
- Cyst removal/rectum 10/2019

Family History

- Father: alive, general good health
- Mother: alive, arthritis
- No family hx of colon or esophageal cancer.

Social History

- Tobacco Use:
- Smoking: Are you a: never smoker.

RESPIRATORY: clear to auscultation bilaterally, no wheezes, rhonchi, rales.

NEUROLOGIC EXAM: non-focal exam, grossly normal motor and sensory function.

SKIN: normal, no rash.

EXTREMITIES: Full range of motion lower extremities bilaterally.

BACK: no costovertebral angle tenderness, full range of motion of the cervical spine, thoracic, and lumbar spine.

PSYCH: awake, alert, oriented x 3.

ABDOMEN: soft, nontender, no palpable masses or organomegaly.

Assessments

1. Bladder dysfunction - N31.9 (Primary)
2. Urgency of micturition - R39.15
3. Hypotonic bladder - N31.2
4. Lower urinary tract symptoms (LUTS) - R39.9, Patient with complex LUTS with significant hypotonic bladder and impaired bladder emptying which is attributed to neurogenic bladder from his herniated lumbar disc and some degree of prostatism. Subjectively reports good improvement on bethanechol at 50 mg p.o. twice daily with Flomax at BID dosing. Objective uroflowmetry studies and postvoid residual from 11/20/2019 are reasonable. Treatment options were reviewed including maintaining the status quo, surgical option of a TUIP but again doubt that surgery alone will normalize the patient's bladder dysfunction or alternately treating the patient with CIC. After reviewing options he would like to continue on his current regimen but was warned that it may not be possible for him to stay on Urecholine chronically due to side-effects. Despite this he is tolerating the medication regimen well.
5. Neurogenic bladder - N31.9, Patient would appear to have a hypotonic neurogenic bladder secondary to herniated disc

Treatment

1. Others
- Clinical Notes:
- I have reviewed the review of systems, past medical, family, and social history as well as vital signs. Appropriate changes made as needed.

Labs

Lab: Urinalysis, Routine - Clinitek (81003)		
BIL	Negative	Negative --
BLO	Negative	Negative --
GLU	Negative	Negative --
KET	Negative	Negative --
LEU	Negative	Negative --
NIT	Negative	Negative --
pH	6.0	4.6 - 8.0 -
PRO	Negative	<15 -- mg/dl
SG	1.020	1.001 - 1.035 -
URO	0.2 E.U./dL	<1.0 -- E.U./dL

Summary View for ARNETTE, JERRY JR | Account Number: e856355

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Allergies

Diclofenac

Hospitalization/Major**Diagnostic Procedure**

See surgical history

Denies any recent hospitalizations

08/11/2017

Denies any recent hospitalizations

8/28/2017

Denies any recent hospitalizations 07/2018

Review of Systems**General/Constitutional**

General able to do usual activities.

HEENT/Neck

Head no headache, no vertigo, no dizziness. Eyes normal vision.

Nose no pain, no sneezing, no nosebleed. Glaucoma no.

Endocrine

Patient denies diabetes, thyroid disorder, gout.

Respiratory

Patient denies cough, asthma/chronic obstructive pulmonary disease (COPD), tobacco use.

Cardiovascular

Patient denies chest pain, dizziness, fainting, heart attack, hypertension.

Gastrointestinal

General no abdominal pain, no ulcers, no GERD.

Hematology

General no easy bruising or bleeding.

Men Only

no Difficulty with erection, no Dysuria, no Hard testicle, no Hernia, no Hypospadias, no Impotence, no Kidney disease, no Penile discharge, no Retracted testicle, no Testicular pain or swelling, no Undescended testicle, no Urgency/frequency.

Musculoskeletal

General no limitation in motion, no muscle or joint pain, no muscle weakness.

Skin

General no rashes, no lesion.

Psychiatric

Psychiatry no current suicidal ideations, no depression.

Procedure Codes

81003 Urinalysis Auto w/o Scope, Modifiers: QW

Follow Up

6 Months (Reason: No cap uroflow and postvoid residual please)

*Christopher**Fukuda*

Electronically signed by CHRISTOPHER FUKUDA, MD on 01/22/2020 at 05:50 PM EST

Sign off status: Completed

McLeod Urology Associates
800 E CHEVES ST STE 350
FLORENCE, SC 295062650
Tel: 843-777-7555
Fax: 843-777-7563

Patient: ARNETTE, JERRY JR DOB [REDACTED] Progress Note: Christopher S. Fukuda, MD 01/22/2020

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Summary View for ARNETTE, JERRY JR | Account Number: e856355

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McLeod

Physician Associates

ARNETTE, JERRY JR

50 Y old Male, DOB [REDACTED]

Account Number: e856355

555 PEARLINE RD, DILLON, SC-29536-6044

Home: [REDACTED]

Guarantor: ARNETTE, JERRY JR Insurance: AETNA

Payer ID: 60054

PCP: TIMOTHY FITZGIBBON, MD

Appointment Facility: McLeod Urology Associates

11/20/2019

Christopher S. Fukuda, MD

Current Medications**Taking**

- Vitamin D3 5000 UNIT Tablet 1 tablet Orally Once a day
- All meds per pt list
- Pantoprazole Sodium 40 MG Tablet Delayed Release 1 tablet Orally once a day
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally Once a day
- Flomax (Tamsulosin HCl) 0.4 MG Capsule 1 capsule Orally BID
- Centrum - Tablet 1 tablet Orally Daily
- Cyclobenzaprine HCl 10 MG Tablet 1 tablet as needed Orally as needed
- Allopurinol 100 MG Tablet 1 tablet Orally twice a day
- Pantoprazole Sodium 40 mg tablet delayed release 1 tablet Orally Once a day
- Antidopine Besylate 10 MG Tablet 1 tablet Orally once a day
- Gabapentin 300 MG Capsule 1 capsule Orally once a day
- Tramadol HCl 50 MG Tablet 1 tablet as needed Orally Q 8 hrs PRN
- Tamsulosin HCl 0.4 MG Capsule 1 capsule Orally Twice a day
- Unknown
- Montelukast Sodium 10 MG Tablet 1 tablet in the evening Orally Once a day
- Docusate Sodium 100 MG Capsule 1 capsule as needed Orally prn
- Turner's - Capsule 1 capsule Orally once a day
- Oxycocons-Acetaminophen 5-325 MG Tablet 1 tablet as needed Orally prn
- ProAir HFA (Albuterol Sulfate HFA) 108 (90 Base) MCG/ACT Aerosol Solution 2 puffs as needed Inhalation every 4 hrs
- Breo Ellipta (Fluticasone Furoate-Vilanterol) 200-25 MCG/INH Aerosol Powder Breath Activated 1 puff Inhalation Once a day
- Lyrica (Pregabalin) 50 MG Capsule 1 capsule Orally Twice a day
- Hydrochlorothiazide 25 MG Tablet 1 tablet in the morning Orally prn
- Cephalexin 500 MG Tablet 2 tablets Orally BID

Reason for Appointment

1. 6 MNT F/U (UROFLOW/NO CUP/PVR)

History of Present Illness**Constitutional:**

Patient is a 50-year-old male with CKD and herniated disc with chronic LUTS thought to be attributable to a neurogenic bladder and mild prostatism. Patient has both obstructive voiding symptoms with a weakened stream and large residuals. Cystoscopy from 10/24/2018 revealed bifobar prostatic hypertrophy visually obstructing over only 1.0 cm length with 1+ bladder trabeculation.

VUD studies on 3/23/2019 revealed sensory urgency with a stable and compliant bladder with good capacity (570 cc) however bladder emptying with markedly impaired with a hypotonic bladder. The patient had sustained detrusor contractions only 15 to 18 cm H₂O a large residual of 300 cc. The cause for his hypotonic bladder was thought to likely be due to his herniated disc.

Patient previously was intolerant of Urecholine 50 mg 4 times daily and he returns today on a regimen of Urecholine 50 mg p.o. twice daily coupled with Flomax twice daily. Patient reports he voided just before his visit and so accurate uroflow study could not be obtained. Despite this he reports that he is voiding more easily.

Vital Signs

Wt 213.6, Wt-kg 96.89, Ht 74, Ht-cm 187.96, BMI 27.42, HR 81, BP 114/75 mm Hg, BSA 2.25 M.

Examination**General Examination:**

GENERAL APPEARANCE: no acute distress, pleasant, cooperative.

EYES: + red reflex bilaterally, conjunctiva clear, extra ocular muscles intact (EOMI) bilaterally.

HEENT: HEAD: ATNC, EARS: normal hearing, NOSE: clear rhinorrhea, THROAT: dentition normal.

ORAL CAVITY: clear, no significant abnormality, mucosa moist.

CARDIOVASCULAR: normal S1S2, regular rate and rhythm, no murmurs.

RESPIRATORY: clear to auscultation bilaterally, no wheezes, rhonchi, rales.

NEUROLOGIC EXAM: non-focal exam, grossly normal motor and sensory function.

Patient: ARNETTE, JERRY JR DOB: [REDACTED] Progress Note: Christopher S. Fukuda, MD 11/20/2019

Summary View for ARNETTE, JERRY JR | Account Number: e856355

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- Prednisone 5 MG Tablet 2 tablets Orally Once a day
- Meloxicam 15 MG Tablet 1 tablet Orally Once a day
- Azelastine-Fluticasone 137-50 MCG/ACT Suspension 1 puff in each nostril Nasally Twice a day
- Fluticasone Propionate 50 MCG/ACT Suspension 1 spray in each nostril Nasally Once a day
- Lasixan Potassium 50 MG Tablet 1 tablet Orally Once a day
- Carafate (Sucralfate) 1 GM Tablet 1 tablet on an empty stomach Orally Twice a day
- Levbid (Hyoscyamine Sulfate ER) 0.375 MG Tablet Extended Release 12 Hour 1 tablet Orally every 12 hrs prn
- Bethanechol Chloride 50 MG Tablet 1 tablet Orally 4 times a day
- Ergocalciferol 50000 UNIT Capsule 1 capsule Orally weekly
- Bactrim DS (Sulfamethoxazole-TMP DS) 800-160 MG Tablet 1 tablet Orally Twice a day
- Pr. did not bring meds today.
- Hyoscyamine 0.375 MG Capsule Extended Release 12 Hour 1 capsule Orally BID, Notes: Stomach problems
- Medication List reviewed and reconciled with the patient.

Past Medical History

Hematochezia.
Hemorrhoids.
GERD (gastroesophageal reflux disease).
Hiatal hernia.
Antral ulcer.
Abdominal pain.
Abdominal bloating.
Dark stools.
Chest pain.
Back disorders.
Hyperlipidemia.

Surgical History

Back surgery (L4-L5) 5/2016
Wisdom teeth
EsophagoGastroDuodenoscopy (EGD) 7/2016
Colonoscopy 07/15/2016
Neck surgery 3/2017
Cataract surgery (Left eye) 5/2017
Debridement of left great toe 4/2017
Nose & Cyst 07/2017
EGD 02/22/2018
Left breast lipoma removed-benign fatty growth 06/2018
hemorrhoidectomy 11/2018
Cyst removal/rectum 10/2019

Family History

Father: alive, general good health
Mother: alive, arthritis
No family hx of colon or esophageal cancer.

Social History

Tobacco Use:
Smoking Are you a: never smoker.

SKIN: normal, no rash.

EXTREMITIES: Full range of motion lower extremities bilaterally.

BACK: no costovertebral angle tenderness, full range of motion of the cervical spine, thoracic, and lumbar spine.

PSYCH: awake, alert, oriented x3.

ABDOMEN: soft, nontender, no palpable masses or organomegaly.

Assessments

1. Bladder dysfunction - N31.9 (Primary)
2. Urgency of micturition - R39.15
3. Hypotonic bladder - N31.2
4. Lower urinary tract symptoms (LUTS) - R39.9, Patient with complex LUTS with significant hypotonic bladder and impaired bladder emptying which is attributed to neurogenic bladder from his herniated lumbar disc and some degree of prostatism. Patient has had large postvoid residuals but emptied his bladder well today. Unfortunately he could not void in adequate amount for valid uroflow study but subjectively reports good improvement on bethanechol at 50 mg p.o. twice daily to be taken with food coupled with Flomax at BID dosing. He will continue on this regimen for now and return in January or February for uroflow and postvoid residual study. Depending on his response surgical option of a TUIP is a consideration but doubt that surgery alone will normalize the patient's bladder dysfunction. Alternative option is to consider CIC. Not sure that the patient can chronically stay on Urecholine.
5. Neurogenic bladder - N31.9, Patient would appear to have a hypotonic neurogenic bladder secondary to herniated disc

Treatment

1. Bladder dysfunction

PROCEDURE: Bladder Scan (51798)

FUKUDA, CHRISTOPHER S 11/20/2019 10:12:40 AM EST >
Postvoid residual 12 cc

2. Lower urinary tract symptoms (LUTS)

PROCEDURE: Bladder Scan (51798)

FUKUDA, CHRISTOPHER S 11/20/2019 10:12:40 AM EST >
Postvoid residual 12 cc

3. Others

Clinical Notes:

I have reviewed the review of systems, past medical, family, and social history as well as vital signs. Appropriate changes made as needed.

Procedures Codes

51798 Measure of postvoiding residual urine bladder ca

Follow Up

January or February. (Reason: No cup uroflow and postvoid residual; schedule late morning appointment)

Summary View for ARNETTE, JERRY JR | Account Number: e856355

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Allergies

Diclofenac

Hospitalization/Major

Diagnostic Procedure

See surgical history

Denies any recent hospitalizations

08/11/2017

Denies any recent hospitalizations

8/28/2017

Denies any recent hospitalizations 07/20/18

Review of Systems

General/Constitutional:

General able to do usual activities.

HEENT/Neck:

Head no headache, no vertigo, no dizziness. Eyes normal vision.

Nose no pain, no sneezing, no nosebleed. Glaucoma no.

Endocrine:

Patient denies diabetes, thyroid disorder, gout.

Respiratory:

Patient denies cough, asthma/chronic obstructive pulmonary disease (COPD), tobacco use.

Cardiovascular:

Patient denies chest pain, dizziness, fainting, heart attack, hypertension.

Gastrointestinal:

General no abdominal pain, no ulcers, no GERD.

Hematology:

General no easy bruising or bleeding.

Men Only:

no Difficulty with erection. no Dysuria. no Hard testicle. no Hernia. no Hypospadias. no Impotence. no Kidney disease. no Penile discharge. no Retractable testicle. no Testicular pain or swelling. no Undescended testicle.

no Urgency/frequency.

Musculoskeletal:

General no limitation in motion, no muscle or joint pain, no muscle weakness.

Skin:

General no rashes, no lesion.

Psychiatric:

Psychiatry no current suicidal ideations, no depression.

Christopher Fukuda

Electronically signed by CHRISTOPHER FUKUDA, MD on 11/20/2019 at 10:15 AM EST

Sign off status: Completed

Addendum:

11/20/2019 01:58 PM FUKUDA, CHRISTOPHER S > Patient spoke with office manager and arranged to come back for a uroflow study in the afternoon despite the schedule being full. Peak flow rate was about 16 cc/s with voided volume of 765 cc. Postvoid residual 6b.cc.

11/20/2019 01:59 PM FUKUDA, CHRISTOPHER S > Procedure code 51741 for uroflowmetry

McLeod Urology Associates
800 E CHEVES ST STE 350
FLORENCE, SC 295062650
Tel: 843-777-7555
Fax: 843-777-7563

Patient: ARNETTE, JERRY JR DOB: [REDACTED] Progress Note: Christopher S. Fukuda, MD 11/20/2019

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)



PEER REVIEW

REFERRAL DATE: 2/13/20

REVIEWER: Solomon Rojhani, MD

CLAIMANT NAME: Jerry Arnette Jr.

ECN CASE NO.: 143079-1

CLIENT: The Standard Insurance Co.

CLAIM #: 00FC6930

CLAIM STATUS: DISPUTED

ANALYST: Julie Fera

CASE MANAGER/SBA: Julie Fera

Addendum for clarification 3/10/20:

For question #4 – Dr. Rojhani listed restrictions/limitations for the diagnoses of lumbago and lumbar radiculopathy. Can he note if there would be any changes in those R/Ls listed if he did not include lumbago, and only considered those that are caused by/related to the lumbar radiculopathy and neurological abnormalities?

Only considering the R/Ls caused by/related to the lumbar radiculopathy and neurological abnormalities, the following are recommended:

Sitting: Unrestricted

Standing: 15 minutes at a time, up to 1 hour total per day

Walking: 15 minutes at a time, up to 1 hour total per day

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities

Climbing stairs: Occasionally

Balancing: Occasionally

Stooping: Never

Kneeling: Never

Crouching: Never

Crawling: Never

Reaching: Unrestricted at desk, overhead or below waist level, with bilateral hands

Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

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Administrative Review Unit

Disclaimer:

"I, S. Rojhani, MD am a physician duly licensed to practice medicine in the State of California. I am an independent contractor and I am paid to review disability claim files

and render medical opinions regarding the records contained herein. I am not responsible for deciding whether a claimant is entitled to insurance benefits. My role is to provide objective medical opinions to The Standard Insurance Co. Benefits personnel.

I do not receive additional compensation in the form of bonuses or incentive pay of any kind. My compensation does not depend upon the outcome of my reviews, the substance of my medical opinions, or any factor other than the number of hours it takes to review a file and provide an analysis.

The Standard Insurance Co. has never expressed to me any requirements or expectations regarding the ultimate conclusions or opinions I provide other than that I provide a well-reasoned professional opinion based on thorough review of all relevant and available information. I do not believe that either my compensation or my continued professional relationship with The Standard Insurance Co. is contingent in any way on the ultimate conclusions or opinions that I provide."

Signature Block:

Sincerely,



Solomon Rojhani, MD

Active California Physician & Surgeon License - A145712

Board Certified, Physical Medicine and Rehabilitation 07/01/2018 - 12/21/2028

Interventional Pain & Spine Medicine Fellow

3/9/20

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Administrative Review Unit

Julie Fera Francis

From: Kasee Pape
Sent: Friday, March 6, 2020 2:56 PM
To: Julie Fera Francis; dmradmin
Subject: RE: Arnette, Jerry - 00FC6930 - ECN #143079-1

Hi Julie:

I will get this over to ECN for Dr. Rojhani to review and comment on.

Thank you,

Kasee Pape | Disability Management Resources Support Specialist
Disability Management Resources
Employee Benefits
900 SW Fifth Avenue | Portland, OR 97204
Phone 971.321.8044 | Fax 971.321.7118

From: Julie Fera Francis <Julie.FeraFrancis@standard.com>
Sent: Friday, March 6, 2020 2:47 PM
To: dmradmin <dmradmin@standard.com>
Subject: Arnette, Jerry - 00FC6930 - ECN #143079-1

Good afternoon –

I need a little clarification on one of the questions for Jerry M. Arnette, Jr.'s claim, which was reviewed by Dr. Solomon Rojhani. I've attached his memo.

For question #4 – Dr. Rojhani listed restrictions/limitations for the diagnoses of lumbago and lumbar radiculopathy. Can he note if there would be any changes in those R/Ls listed if he did not include lumbago, and only considered those that are caused by/related to the lumbar radiculopathy and neurological abnormalities?

Thank you,

Julie A Fera | Benefits Review Specialist
The Standard
Standard Insurance Company
900 SW Fifth Avenue | Portland, OR 97204
Phone 971.321.8621 | Fax 971.321.5038
julie.ferafrancis@standard.com | www.standard.com



Exam Coordinators Network
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PEER REVIEW

REFERRAL DATE: 2/13/20

REVIEWER: Solomon Rojhani, MD

CLAIMANT NAME: Jerry Arnette Jr.

ECN CASE NO.: 143079-1

CLIENT: The Standard Insurance Co.

CLAIM #: 00FC6930

CLAIM STATUS: DISPUTED

ANALYST: Julie Fera

CASE MANAGER/SBA: Julie Fera

DATE OF REVIEW: 2/21/20

List of Medical Records:

- Mark Greenslit, MD (Radiology): on 5/31/16
- Aron Rosenthal, MD (Radiology): on 12/20/16
- Joseph Mullaney, MD (Radiology): extending from 6/13/17 to 8/13/17
- James Theeing, DO (Radiology): on 7/21/17
- John Lucas IV, MD (Radiology): on 3/12/18
- Mary Betlewis, MD (Radiology): on 5/26/18
- Paul Hatte, MD (Radiology): on 7/26/18
- Stephan Stamato, MD (Radiology): extending from 9/28/18 to 10/1/18
- Jason Highsmith, MD (Neurology): extending from 2/2/16 to 9/18/19
- Edwin Blitch IV, DPM (Podiatry): extending from 4/10/17 to 2/13/18
- Richard Kline, MD: extending from 1/2/17 to 5/4/17
- Blake Kline, MD (Surgeon): on 4/20/17
- Stephen Elmore, MD: on 6/13/17
- Anil Om, MD: extending from 7/24/17 to 8/11/17
- Edward Tavel, MD (Pain Medicine): extending from 5/31/17 to 8/25/17
- Deepak Chowdhary, MD (Gastroenterology): extending from 7/5/17 to 8/28/17
- Kinsey Knight, PA (Physician Assistant): extending from 7/25/17 to 10/2/17
- Sushil Sunghi, MD (Sleep Medicine): on 10/5/17
- Anna Fakadej, MD (Unknown): on 10/19/17
- John W. French, MD (Oncologist): extending from 7/7/17 to 11/17/17
- Richard Silver, MD (Pulmonologist): extending from 6/13/17 to 12/5/17
- Shown McKay, MD: extending from 7/24/17 to 12/21/17
- Mohamed Zein, MD (Internal Medicine): on 2/21/18
- Venugopal Govindappa, MD (Nephrology): extending from 8/28/17 to 5/5/18
- Shari May, MA (Medical Assistant): on 11/7/18
- Richard Guyer, MD (Orthopedic Surgeon): on 11/7/18
- Timothy Fitzgibbon, MD (Family Medicine): extending from 1/18/18 to 12/27/18

Opening Synopsis:

50 y/o who last worked 02-13-17, due to neck pain and underwent 2-level ACDF on 03-06-17. Prior to then he had already undergone lumbar microdiscectomy with

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decompression in 05/2016. Since he ceased work he has also undergone cataracts and septoplasty surgeries, and has also be entreated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint poly arthropathies and hallux rigidus.

Summary of Contact with Treating Physician or Attempt to Contact:

[2/19/2020 at 11:54] Phone call to Dr. Highsmith in order to provide him the opportunity to give additional information on his patient. Left message with front office specialist, Chelsea M. I will provide an addendum if I receive a return call.

Review of Records:

I reviewed all records provided to me including, but not limited to, the following:

2/2/16 Jason Highsmith, MD, the claimant is seen for a four-month history of right lower extremity pain, weakness and numbness. Exam findings included subtle dorsiflexion weakness at 4-/5, and right L5 numbness, worse pain with ROM.

4/26/16 Jason Highsmith, MD, the claimant had a follow-up visit for low back and right leg pain, along with worsening paresthesia. Exam revealed 4-/5 strength on the right, right L5 numbness.

5/9/16 Jason Highsmith, MD, the claimant underwent L4-5 microdiscectomy for disk herniation at L4-5.

5/18/16 Jason Highsmith, MD, follow-up note 2 weeks post-op. The claimant notes residual neuropathic pain but admits some improvement. Exam revealed well-healed wound, markedly improved strength 4/5, but residual L5 numbness.

8/13/17 X-ray of the lumbar spine revealed degenerative change greatest at the lumbosacral junction.

3/12/18 EMG/NCS study revealed evidence of chronic L5 and S1 radicular changes.

7/6/18 X-ray of the hips - negative.

9/28/18 MRI of the lumbar spine identified moderate degenerative disease, multi-level neuroforaminal stenosis.

8/16/19 progress note of Jason M. Highsmith, MD, FACS (Neurosurgery) states that the claimant has pain on his neck, mid and lower back. His mid back pain is worse when pushing, pulling and twisting. His neck pain is described as sharp, stabbing pain with radiation to the paraspinous muscles. There is also a persistent burning pain on his right leg. The claimant has undergone previous lumbar decompression at L4-L5 and anterior cervical discectomy with arthroplasty. Exam: tender cervical, thoracic and lumbar paraspinous muscles. Palpable thoracic and lumbar paraspinous muscle spasms. Trigger points noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. Moderate to severe tenderness from L3 to S1 with limited range of motion. Diagnoses: axial neck pain; axial low back pain; cervical disc disruption C4-C5, s/p C5-C7 anterior cervical discectomy, arthroplasty; lumbar disc disruption L3-S1, s/p L5 posterior decompression; and axial midback pain.

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9/18/19 progress note of Jason M. Highsmith, MD, FACS shows that she has a severe midback pain. It is worse with coughing and twisting. The claimant states that oftentimes he finds difficulty breathing. He also has lower back and right leg pain which radiates to the right foot. His neck pain is tolerable. He could not take NSAIDs because of kidney disease and ulcers. X-ray shows multilevel degenerative changes, most notably from L3-S1. His thoracic MRI demonstrates multilevel disc disruptions at T1-2 and from T6 to T9. There is also a dilated central canal at T5 to T6. Diagnoses: axial neck pain; axial low back pain; cervical disc disruption C4-C5, s/p C5-C7 anterior cervical discectomy, arthroplasty; lumbar disc disruption L3-S1, s/p L5 posterior decompression; axial midback pain; and chronic L5-S1 radicular changes.

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Summary of Pertinent Information:

All records were reviewed, but comments are limited to pertinent records. The claimant experienced pain on his neck, mid and lower back pain (8/16/19, Dr. Jason M. Highsmith). His neck pain as described as sharp and stabbing, with radiation to the paraspinous muscles. His mid back pain was reportedly worse when pushing, pulling and twisting. He also had lower back, right leg and right foot pain (9/18/19, Dr. Highsmith). On examination, tenderness was noted on his cervical, thoracic and lumbar paraspinous muscles. There were palpable thoracic and lumbar paraspinous muscle spasms. Trigger points were noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. There were also moderate to severe tenderness from L3 to S1 with limited range of motion. His X-ray showed multilevel degenerative changes, most notably from L3 -S1. His thoracic MRI exhibited multilevel disc disruptions at T1-2 and from T6 to T9. The claimant has a very complicated course as a result of both cervical and lumbar disease history, for which he also has an extensive surgical history including cervical discectomy arthroplasty and lumbar discectomy, currently remaining with residual symptoms including both axial/mechanical and radicular pain, and neurological abnormalities. There is documentation of an APS letter from 5/11/18 noting both cervical and lumbar disc disease history and pain symptoms, but no specific restrictions are listed. Therefore, I am unable to make a specific comment regarding provider recommendations.

Answers to Questions:

1. Please list the claimant's medically supported diagnoses as of and continuing beyond 05-15-19?

Supported: axial neck pain; axial low back pain; cervical disc disruption C4-C5, s/p C5-C7 anterior cervical discectomy, arthroplasty; lumbar disc disruption L3-S1, s/p L5 posterior decompression; axial midback pain; and chronic L5-S1 radicular changes.

Not supported: multi joint polyarthropathy and hallux rigidus; no imaging evidence of arthritis documented (excluding cervical and lumbar spine - spondylosis). There is also no specific evaluation of lower extremity.

2. a) Are any of those diagnoses caused, contributed to or considered any of the following:

- fibromyalgia, reflex sympathetic dystrophy or myofascial pain;
- arthritis other than rheumatoid or psoriatic arthritis;
- diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue; or- sprains or strains of joints or muscle?

The claimant has cervical and lumbar disc disruption with chronic L5-S1 radicular changes. These conditions are classified under "diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue as well as arthritis as spondylotic changes are arthritic changes of the vertebrae".

I am unable to confirm polyarthropathy and hallux rigidus.

b.) If so, and you exclude all limitations/restrictions caused by those conditions, is impairment from full timework activities within a reasonably consistent, 40 hr/week work schedule supported after 05-14-19? Please explain why or why not, noting which conditions, if any, are causing which limitations/restrictions.

If excluding the R/Ls caused by the claimant's disorders of the cervical and lumbosacral back, impairment from full time work activities within a reasonably consistent, 40 hr/week work schedule, is not supported after 5/14/19.

3. Are any of the claimant's diagnoses caused, contributed to and/or considered any of the following as of 05-14-19 and continuing beyond?

- neurologic diseases;
- asthma or allergy-induced reactive lung disease;
- demyelinating diseases, lupus, rheumatoid or psoriatic arthritis;
- herniated discs with neurological abnormalities documented by EMG, and CT or MRI;
- radiculopathies that are documented by EMG;
- spondylolisthesis, grade II or higher, myelopathies and/or myelitis?

Yes. The provider documented chronic L5-S1 radicular changes. His 3/12/18 EMG reflected this and confirmed radiculopathy. The claimant also has evident neurological abnormalities.

4. If so, and any such conditions result in any type of limitations/restrictions as of 05-15-19 and continuing beyond, which would impair him from performing full-time work activities, please list those conditions and the limitations/restrictions they cause. Again, please explain the medical information/reasoning that supports your conclusions.

The claimant has had lower back, right leg and right foot pain (9/18/19, Dr. Highsmith). On examination, tenderness was noted on his cervical, thoracic and lumbar paraspinous muscles. There were palpable thoracic and lumbar paraspinous muscle spasms. Trigger points were noted on the right and left trapezius, latissimus dorsi, and right and left quadratus lumborum. There were also moderate to severe tenderness from L3 to S1 with limited range of motion. His X-ray showed multilevel degenerative changes, most notably from L3-S1. His thoracic MRI exhibited multilevel disc disruptions at T1-2 and from T6 to T9. The claimant has an extensive history related to lumbar DDD, and radiculopathy, and accordingly requires R/L's as follows.

Lumbago, lumbar radiculopathy:

Sitting: Frequently up to 6 hours total per day
Standing: 15 minutes at a time, up to 1 hour total per day
Walking: 15 minutes at a time, up to 1 hour total per day

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Administrative Fee Unit 0242

Lifting: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Carrying: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Pushing: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Pulling: Occasionally up to 20 lbs., frequently up to 10 lbs. bilateral upper extremities
Climbing stairs: Occasionally
Balancing: Occasionally
Stooping: Never
Kneeling: Never
Crouching: Never
Crawling: Never
Reaching: Occasionally overhead or below waist level, unrestricted at desk with bilateral hands
Using lower extremities for foot controls: Unrestricted using left foot; occasionally using the right foot

Disclaimer:

"I, S. Rojhani, MD am a physician duly licensed to practice medicine in the State of California. I am an independent contractor and I am paid to review disability claim files and render medical opinions regarding the records contained herein. I am not responsible for deciding whether a claimant is entitled to insurance benefits. My role is to provide objective medical opinions to The Standard Insurance Co. Benefits personnel.

I do not receive additional compensation in the form of bonuses or incentive pay of any kind. My compensation does not depend upon the outcome of my reviews, the substance of my medical opinions, or any factor other than the number of hours it takes to review a file and provide an analysis.

The Standard Insurance Co. has never expressed to me any requirements or expectations regarding the ultimate conclusions or opinions I provide other than that I provide a well-reasoned professional opinion based on thorough review of all relevant and available information. I do not believe that either my compensation or my continued professional relationship with The Standard Insurance Co. is contingent in any way on the ultimate conclusions or opinions that I provide."

Signature Block:

Sincerely,



Solomon Rojhani, MD
Active California Physician & Surgeon License - A145712
Board Certified, Physical Medicine and Rehabilitation 07/01/2018 - 12/21/2028
Interventional Pain & Spine Medicine Fellow

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2/21/20

Solomon N. Rojhani, M.D.

Physical Medicine & Rehabilitation
Interventional Pain & Spine Medicine
Electrodiagnostic Medicine
California Sports & Spine Center
323 North Prairie Avenue
Suite 417
Inglewood CA, 90301
solrojhani@gmail.com

Medical Training

08/2017 – 07/2018 **Fellowship**
UCLA Interventional Pain & Spine Medicine Fellow
Clinical Instructor, UCLA Department of Orthopedic
Surgery UCLA Comprehensive Spine Center
Los Angeles, CA

07/2014 – 06/2017 **Residency**
Chief Resident, 2016 - 2017
Physical Medicine and Rehabilitation
The Johns Hopkins University School of
Medicine Baltimore, MD

07/2013 – 06/2014 **Internship**
Internal Medicine
Maimonides Medical
Center Brooklyn, NY

Education

09/2009 – 05/2013 **Doctor of Medicine**
University of Tel Aviv, Sackler School of
Medicine Tel Aviv, Israel

09/2003 – 06/2007 **Bachelor of Science**
University of California, Los
Angeles Physiologic Science

Medical Licensure and Certifications

Active California Physician & Surgeon License – A145712
Board Certified, Physical Medicine and Rehabilitation 07/01/2018 – 12/21/2028

Honors & Awards

2016 Interventional Orthopedics Foundation Stipend Award Winner
2015 The Johns Hopkins Healer Award
2003 – 2006 Phi Kappa Psi Scholarship
2003 – 2005 Dean's Honor List, UCLA

Professional Society Memberships, Certifications & Service

2017 North American Neuromodulation Society
2015 Resident Reviewer, *Regional Anesthesia and Pain Medicine* (2x/year)
2015 Resident Member, Association of Academic Physiatrists (AAP)
2015 Resident Member, North American Spine Society
2015 Resident Member, Spine Intervention Society
2014 – 2015 Resident Member, Johns Hopkins Quality Improvement Council
2014 Resident Member, American Academy of Physical Medicine and Rehabilitation
2013 Member, Educational Committee for Foreign Medical Graduates (ECFMG)
2013 Basic Life Support (BLS) & Advanced Cardiovascular Life Support (ACLS)
2009 – 2012 Student Member, American Medical Student Association (AMSA)

Research Experience

2010 – 2012 AposTherapy Inc., Herzliya, Israel. AposTherapy is a novel biomechanical device designed to help rehabilitate patients with lower limb injuries through conservative, non-pharmacologic treatment.

Student Researcher

- Compiled and compared patient data in addition to writing research articles for possible publication.

2004 – 2006 Edgerton Lab, Brain Research Institute, UCLA, Los Angeles, California
Research Assistant

- Responsible for pre and post-surgical care for animals, as well as assistance during spinal cord transection surgeries and robotically-assisted manual step training to simulate stepping ability.

Quality Improvement Projects

2015 – 2017 **Prescribing Intranasal Naloxone on Acute Inpatient Rehabilitation for Opioid Overdose Prevention**

Developer

- Development and initiation of a project aimed at prescribing intranasal naloxone on The Johns Hopkins Hospital acute inpatient rehabilitation unit for opioid overdose prevention.

2015 **A Multidisciplinary Approach to Post-cardiac Surgical Care**

Developer

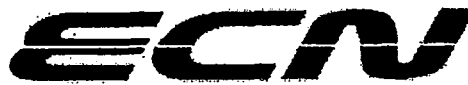
- Program aimed at improving post-cardiac surgery outcomes on The Johns Hopkins Hospital acute inpatient rehabilitation unit.
- Includes greater exercise monitoring, patient care log, educational program, outpatient cardiac rehabilitation referral and other techniques to improve care.

Posters & Presentations

- 2017 **Rojhani S**, Stiens SA, Recio AC. Independent Sailing With High Tetraplegia Using Sip and Puff Controls: Integration Into A Community Sailing Center. 7th Annual Johns Hopkins Physical Medicine and Rehabilitation Research and Clinical Expo, Baltimore, MD. Planned October 19, 2017.
- 2017 **Rojhani S** and Chhatre A. Improved Pain and Function with Cooled Radiofrequency Ablation in Bilateral Hip Osteoarthritis: A Case Report. 2017 Association of Academic Physiatrists Annual Meeting. 2017 February 10; Las Vegas, Nevada.
- 2016 (Platform Presentation) Lyn Yao A, **Rojhani S**, Odonkor C, Tang T, Hoyer H. Development and Initiation of an Opioid Overdose Prevention Program on an Acute Inpatient Rehabilitation Unit: A Quality Improvement Project. 4th Annual National Summit on Safety and Quality for Rehabilitation Hospitals. 2016 April 19; Baltimore, Maryland.
- 2016 **Rojhani S**. Development and Initiation of an Opioid Overdose Prevention Program on an Acute Inpatient Rehabilitation Unit. Johns Hopkins Physical Medicine & Rehabilitation Grand Rounds. 2016 March 15.
- 2016 (Abstract) **Rojhani S**, Recio AC, Stiens SA. Independent Sailing With High Tetraplegia Using Sip and Puff Adaptations. Poster presentation at: 2016 Association of Academic Physiatrists Annual Meeting. 2016 February 19; Sacramento, California.
- 2015 **Rojhani S**, Penton C, Skolky R, Wilkins E, Stresing K, Karagiorgos E, *et al*. Heart Matters: Changing the Paradigm of Post-surgical Cardiac Care. Poster session presented at: The 5th Annual Johns Hopkins Hospital Physical Medicine and Rehabilitation Clinical Showcase. 2015 October 28; Baltimore, Maryland.
- 2015 Chairman's Rounds, Johns Hopkins Hospital, Baltimore, MD
- 2014 Chairman's Rounds, Maimonides Medical Center, Brooklyn, NY
- 2012 Cohen M, **Rojhani S**, Debbi EM, Segal G, Debi R. A non-invasive treatment (AposTherapy) accelerates the rehabilitation in the chronic management of ACL rupture as compared to reconstructive therapy. Poster presentation at the Sackler School of Medicine Research Symposium – Tel Aviv University. 2012 April. Tel Aviv, Israel.

Published Works

1. Van SP, Yao AL, Tang T, Kott M, Noles A, Dabai N, Coslick A, **Rojhani S**, Sprankle LA, Hoyer EH. Implementing an Opioid Risk Reduction Program in the Acute Comprehensive Inpatient Rehabilitation Setting. *Archives of Physical Medicine and Rehabilitation*. 2019 May 20.
2. **Rojhani S** and Chhatre A (2019). 'F-Waves', in Visco, C. (ed.) *McLean EMG Guide, Second Edition*. Springer Publishing Company
3. Odonkor CA, Ann Sprankle L, **Rojhani S**, Tang T, Yao A, Hoyer EH. Poster 457-C Towards Reducing Harms: Designing a Quality Improvement Project to Improve Pain Management and Outcomes Among Chronic Pain and Opioid Users in an Acute Rehabilitation Program. *PM&R*. 2016 Sep; 8(9S):S332.
4. **Rojhani S**, Stiens SA and Recio AC. *Independent sailing with high tetraplegia using sip and puff controls: integration into a community sailing center*. *Journal of Spinal Cord Medicine*. 2016 Jul 14:1-10
5. **Rojhani S**, Qureshi Z and Chhatre A. *Cooled radiofrequency provides relief, decreases disability and improves quality of life in chronic knee osteoarthritis*. *American Journal of Physical Medicine & Rehabilitation*. 2016 May 18.
6. **Rojhani S** and R. Samuel Mayer. Communication Tools in Healthcare: Basics, In: *Resident's Handbook of Medical Quality and Safety*, Levan Atanelov ed., Springer International Publishing Switzerland, 2016, pp. 217 – 230.
7. **Rojhani S**. Project Management: Basics, In: *Resident's Handbook of Medical Quality and Safety*, Levan Atanelov ed., Springer International Publishing Switzerland, 2016, pp. 231 – 252.
8. **Rojhani S**. Team Management in Healthcare: Basics in Healthcare: Basics, In: *Resident's Handbook of Medical Quality and Safety*, Levan Atanelov ed., Springer International Publishing Switzerland, 2016, pp. 253 – 262.



Exam Coordinators Network
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PEER REVIEW

REFERRAL DATE: 2/13/20

REVIEWER: Joshua F Lewis, MD

CLAIMANT NAME: Jerry Arnette Jr.

ECN CASE NO.: 143079-2

CLIENT: The Standard Insurance Co.

CLAIM #: 00FC6930

CLAIM STATUS: DISPUTED

ANALYST: Julie Fera

CASE MANAGER/SBA: Julie Fera

DATE OF REVIEW: 2/21/2020

List of Medical Records:

- Mark Greenslit, MD (Radiology): on 5/31/16
- Aron Rosenthal, MD (Radiology): on 12/20/16
- Joseph Mullaney, MD (Radiology): extending from 6/13/17 to 8/13/17
- James Theeing, DO (Radiology): on 7/21/17
- John Lucas IV, MD (Radiology): on 3/12/18
- Mary Betlewis, MD (Radiology): on 5/26/18
- Paul Hatte, MD (Radiology): on 7/26/18
- Stephan Stamato, MD (Radiology): extending from 9/28/18 to 10/1/18
- Jason Highsmith, MD (Neurology): extending from 5/9/16 to 9/18/19
- Edwin Blitch IV, DPM (Podiatry): extending from 4/10/17 to 2/13/18
- Richard Kline, MD: extending from 1/2/17 to 5/4/17
- Blake Kline, MD (Surgeon): on 4/20/17
- Stephen Elmore, MD: on 6/13/17
- Anil Om, MD: extending from 7/24/17 to 8/11/17
- Edward Tavel, MD (Pain Medicine): extending from 5/31/17 to 8/25/17
- Deepak Chowdhary, MD (Gastroenterology): extending from 7/5/17 to 8/28/17
- Kinsey Knight, PA (Physician Assistant): extending from 7/25/17 to 10/2/17
- Sushil Sunghi, MD (Sleep Medicine): on 10/5/17
- Anna Fakadej, MD (Unknown): on 10/19/17
- John W. French, MD (Oncologist): extending from 7/7/17 to 11/17/17
- Richard Silver, MD (Pulmonologist): extending from 6/13/17 to 12/5/17
- Shown McKay, MD: extending from 7/24/17 to 12/21/17
- Mohamed Zein, MD (Internal Medicine): on 2/21/18
- Venugopal Govindappa, MD (Nephrology): extending from 8/28/17 to 5/5/18
- Shari May, MA (Medical Assistant): on 11/7/18
- Richard Guyer, MD (Orthopedic Surgeon): on 11/7/18
- Timothy Fitzgibbon, MD (Family Medicine): extending from 1/18/18 to 12/27/18

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Opening Synopsis:

50 y/o Driver's License Examiner, who last worked 02-13-17, due to neck pain and underwent 2-level ACDF on 03-06-17. Prior to then he had already undergone lumbar

microdiscectomy with decompression in 05/2016. Since he ceased work he has also undergone cataracts and septoplasty surgeries, and has also been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint poly arthropathies and hallux rigidus.

Summary of Contact with Treating Physician or Attempt to Contact:

11:36 AM, 02/21/20, called Dr. Fitzgibbon to offer him the opportunity to provide additional information regarding his patient. Left a message with telephone operator, Miranda C. I will submit an addendum if I receive a call back.

Review of Records:

I reviewed all records provided to me including, but not limited to, the following:

12/20/16 X-ray lumbar spine.

6/13/17 X-ray lumbar spine.

7/23/17 CT sinus – small mucous retention cyst in the left maxillary sinus and minimal mucosal thickening in the right maxillary sinus.

7/24/17 EKG – non-specific QRS changes, normal sinus rhythm – 63 bpm

8/13/17 X-ray of the lumbar spine – degenerative changes.

3/12/18 EMG/NCS – chronic L5 and S1 radicular changes.

5/26/18 Renal USG – normal.

7/6/18 X-ray bilateral hips.

7/10/18 Holter recording average BP 155/90 mmHg; maximum 163 mmHg systolic, minimum 102 mmHg systolic; maximum 108 mmHg diastolic, minimum 48 mmHg diastolic, HR average 70 bpm, maximum 96 bpm, and minimum 37 bpm.

7/26/18 MRI of the brain – normal study. No abnormal echo signal, all appropriate flow voids present.

9/28/18 Lumbar MRI study.

10/31/18 Labs include TPO Ab 6, Testosterone 464 total.

11/7/18 Richard Guyer, MD, the claimant is seen for chronic low back pain and right leg pain.

12/26/18 Timothy Fitzgibbon, MD, the claimant is seen to discuss BP meds, and also discuss labs. He is concerned over a recall notice of his BP medicine. Exam findings included normal vitals, RRR, no murmur, clear lungs, soft, NT, ND abdomen. Diagnoses listed includes hyperlipidemia, gout, CKD, elevated BP, carotid bruit, lumbar back pain with radiculopathy.

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12/27/18 Carotid Doppler study – minimal plaque in the right IC, normal velocities; mild atherosclerotic plaque in the right external carotid artery; minimal plaque in the left internal and external carotid arteries.

12/27/18 Timothy Fitzgibbon, MD, the claimant is seen to review labwork and carotid studies, which were normal. Exam findings included normal vitals. Medications listed includes ProAir HFA, pantoprazole, Cyclobenzaprine, Montelukast, Breo Ellipta, Flomax, allopurinol, amlodipine.

3/7/19 Jason Highsmith, MD, the claimant is seen for persistent neck, mid and low back pain with levels as high as 6-7/10 in intensity.

8/16/19 Jason Highsmith, MD, the claimant returns for a follow-up visit for pain symptoms involving the mid back, neck and low back.

9/18/19 Jason Highsmith, MD, the claimant had a follow-up for neck, mid and low back pain.

Summary of Pertinent Information:

The claimant is a 50-year-old Driver's License Examiner, who last worked 02-13-17, due to neck pain and underwent 2-level ACDF on 03-06-17. Prior to then he had already undergone lumbar microdiscectomy with decompression in 05/2016. Since he ceased work he has also undergone cataracts and septoplasty surgeries, and has also been treated for ongoing neck and lower back pain, chronic kidney disease, asthma, chest pain with heart rhythm concerns, sleep apnea, multi-joint poly arthropathies and hallux rigidus. This report will focus on the internal medicine conditions. The claimant has a long-standing history of hypertension, hyperlipidemia, COPD, gout, testosterone deficiency, chronic kidney disease, sinusitis, however, there is no functionally impairing limitations resulting from the conditions, as the claimant had been stable with compliance to treatments. There is no discussion of recommended restrictions pertinent to these conditions, rather records include specific recommendations for cervical and lumbar disease history with radiculopathy.

Answers to Questions:

1. Please list the claimant's medically supported diagnoses as of and continuing beyond 05-15-19?

COPD
Hypertension
Gout
Testosterone deficiency, stable on supplement with physiological levels
Hyperlipidemia
Multi-joint arthropathies
Sinusitis
CKD
Cervical DDD, cervicgia, s/p ACDF
Lumbar DDD with radiculopathy, lumbago, s/p lumbar discectomy
Cataracts
Hallux rigidus

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2. a.) Are any of the diagnoses caused, contributed to, considered any of the following:
- fibromyalgia, reflex sympathetic dystrophy or myofascial pain;
 - arthritis other than rheumatoid or psoriatic arthritis;
 - diseases or disorders of the cervical, thoracic, or lumbosacral back and its surrounding soft tissue; or
 - sprains or strains of joints or muscle?

The claimant certainly has arthritis; specifically spondylosis involving both the cervical and lumbar spine. Spondylosis is the term to describe arthritic changes of the vertebrae, and therefore, diseases or disorders of the cervical and lumbosacral back and arthritis (other than inflammatory arthropathy such as RA, psoriatic arthritis etc.) is supported.

- b.) If so, and you exclude all limitations/restrictions caused by those conditions, is impairment from full time work activities within a reasonably consistent, 40 hr/week work schedule supported after 05-14-19? Please explain why or why not, noting which conditions, if any, are causing which limitations/restrictions.

The claimant's internal medicine conditions do not result in limitations.

Hypertension: supported; previously was uncontrolled, however, there is no documentation of hypertensive complications, urgency/crisis to impact functionality. Compliance to treatment is anticipated to result in stabilization – which is evidently established based on the normalized vitals.

COPD: supported; stable, with no documentation of a current respiratory insult/difficulty, desaturation at rest or further complications.

CKD: supported; not functionally impairing. There is no renal associated complications, volume/electrolyte/metabolic abnormalities documented.

Testosterone deficiency: supported; stable with supplement as the claimant maintains physiological levels.

Hyperlipidemia: supported; not functionally impairing. There is no documentation of specific lipid associated complications.

Multi-joint arthropathies: Likely generalized arthritis; there is no IM associated condition to explain the symptoms.

Sinusitis: supported; not functionally impairing. There is no active infection or complications to impact functionality.

Administrative Review Unit

MAR 04 2020

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3. Are any of the claimant's diagnoses caused, contributed to and/or considered any of the following as of 05-14-19 and continuing beyond?
- neurologic diseases;
 - asthma or allergy-induced reactive lung disease;
 - demyelinating diseases, lupus, rheumatoid or psoriatic arthritis;
 - herniated discs with neurological abnormalities documented by EMG, and CT or MRI;
 - radiculopathies that are documented by EMG;

- spondylolisthesis, grade II or higher, myelopathies and/or myelitis?

While the claimant has COPD, there is no specific diagnosis of asthma. Both of these conditions are lung diseases, however, COPD manifests with chronic bronchitis and emphysema changes, while asthma manifests with allergy/trigger induced respiratory abnormalities. There is no such documentation.

The claimant has evident herniated disks with neurological abnormalities, radiculopathy confirmed with EMG work-up identifying lumbosacral radiculopathy; also, spondylosis, confirmed with imaging.

4. If so, and any such conditions result in any type of limitations/restrictions as of 05-15-19 and continuing beyond, which would impair him from performing full-time work activities, please list those conditions and the limitations/restrictions they cause. Again, please explain the medical information/reasoning that supports your conclusions.

N/A. No restrictions are supported due to internal medicine conditions.

Disclaimer:

"I, Joshua Lewis, MD am a physician duly licensed to practice medicine in the State of California. I am an independent contractor and I am paid to review disability claim files and render medical opinions regarding the records contained herein. I am not responsible for deciding whether a claimant is entitled to insurance benefits. My role is to provide objective medical opinions to The Standard Insurance Co. Benefits personnel.

I do not receive additional compensation in the form of bonuses or incentive pay of any kind. My compensation does not depend upon the outcome of my reviews, the substance of my medical opinions, or any factor other than the number of hours it takes to review a file and provide an analysis.

The Standard Insurance Co. has never expressed to me any requirements or expectations regarding the ultimate conclusions or opinions I provide other than that I provide a well-reasoned professional opinion based on thorough review of all relevant and available information. I do not believe that either my compensation or my continued professional relationship with The Standard Insurance Co. is contingent in any way on the ultimate conclusions or opinions that I provide."

Signature Block:



Joshua Lewis, MD
Internal Medicine
Medical License CA 127535

2/21/20

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MAR 04 2020
Administrative Review Unit

JOSHUA F. LEWIS, MD

Home Address

8414 Clinton St
West Hollywood, CA 90048

Contact Information

Phone: (626) 862-1333
Fax: (877) 992-6762
Email: lewisjf@gmail.com

Biographical Data

Date of Birth: October 22, 1982 Gender: Male
Place of Birth: Johannesburg, South Africa Marital Status: Single
Citizenship: USA (Resident in USA since 1983)

Work

2014 – Present Private practice Hospitalist, independent contractor with Platinum Care LA

Education

2011 – 2014 Cedars-Sinai Medical Center, Internal Medicine Residency
Los Angeles, California

2007 – 2011 St. Georges University School of Medicine
Grenada, West Indies
Doctor of Medicine, **Cum Laude**, April 2011

2001 – 2006 University of California, Santa Barbara
Santa Barbara, CA
Bachelor of Arts degree in Biological Sciences

Honors and Awards

2010 Iota Epsilon Alpha, International Honor Medical Society
St. Georges University School of Medicine

2007 -2009 Dean's list
St. Georges University School of Medicine

Certifications

2003-2008 EMT-I Los Angeles County, CA

2009 USMLE Step 1: 235/98

2010 USMLE Step 2 CS: Pass

2010 USMLE Step 2 CK: 229/99

2013 USMLE Step 3: 226

2014-Present American Board of Internal Medicine

Research Experience

Current Ongoing Research Experience:

2011-2013 : *Cocaine-induced vasoconstriction of the human coronary microcirculation: New evidence from myocardial contrast echocardiography.* Supervisor: Ronald G. Victor, MD. Hypertension and Vascular Biology Laboratory, Cedars-Sinai Medical Center, Los Angeles, CA. - Human subject research establishing the effect of cocaine on coronary microcirculatory vasoconstriction using a novel technique involving contrast echocardiography. Evaluation of the effect of a centrally acting alpha blocker (dexmedetomidine) on cocaine induced vasoconstriction.

2011-2013: *Phosphodiesterase 5 inhibition rescues functional sympatholysis in Duchenne Muscular Dystrophy AND Tadalafil-sensitive impairment in muscle blood flow during exercise in Duchenne Muscular Dystrophy.* Supervisor: Ronald G. Victor, MD. Hypertension and Vascular Biology Laboratory, Cedars-Sinai Medical Center, Los Angeles, CA. - Human subject research showing a positive correlation between PDE5 Inhibitors and decreased functional muscle ischemia in DMD patients. Results of these studies are currently being used to initiate a worldwide phase 3 study, aimed at examining the use of PDE5 inhibitors as adjunctive treatment for DMD patients.

Previous Research Experience:

2006: *Emergency Physician Utilization of Plain Radiography for Patients with Primary Diagnosis of Lower Back Pain or Sciatica.* Supervisor: Paul A. Silka, M.D., Cedars-Sinai Medical Center, Los Angeles, CA

2006: *Emergency Department 72-hour return visits - Utilization and Analysis Study.* Supervisor: Paul A. Silka, M.D., Cedars-Sinai Medical Center, Los Angeles, CA

2007: *Can a Slumped Posture on an Emergency Department Gurney Compromise Breathing in Adults?* Supervisor: Paul A. Silka, M.D., Cedars-Sinai Medical Center, Los Angeles, CA

2007: *Emergency Department Utilization Study on Admission of Syncope Patients.* Supervisor: Paul A. Silka, M.D., Cedars-Sinai Medical Center, Los Angeles, CA

2009: *Clostridium difficile Colitis and Probiotics.* Supervisor: David Tompkins, M.D., Lutheran Medical Center, Brooklyn, NY

2010: *Dissecting the Reason for Rehospitalization within 30 Days Of Discharge: A Retrospective Study.* Supervisor: David Tompkins, M.D., Lutheran Medical Center, Brooklyn, NY

2010: *Management of Post-Traumatic Retained Hemothorax: A Prospective, Observational, Multicenter AAST Study.* Supervisor: Fausto Vincas, D.O. Lutheran Medical Center, Brooklyn, NY

Peer Reviewed Publications

S Gurudevan, MD Nelson (co-first authors), F Rader, X Tang, J Lewis, J Johannes, JT Belcik, RM Elashoff, JR Lindner, RG Victor. Cocaine-induced vasoconstriction of the human coronary microcirculation: New evidence from myocardial contrast echocardiography. *Circulation*. (Accepted June 18, 2013)

MD Nelson, F Rader, X Tang, J Johannes, J Lewis, RM Elashoff, HL Sweeney, RG Victor. Phosphodiesterase 5 inhibition restores functional sympatholysis and improves exercise hyperemia in Duchene Muscular Dystrophy: a pilot study. *J Physiol*. (will be submitted within next couple months)

Abstracts

MD Nelson, EA Martin, X Tang, J Johannes, J Lewis, SV Gurudevan, RG Victor. Tadalafil-sensitive impairment in muscle blood flow during exercise in Duchenne Muscular Dystrophy. *FASEB J*. 27:943.17, 2013.

MD Nelson, EA Martin, X Tang, J Johannes, J Lewis, SV Gurudevan, S Nelson, C Miceli, RG Victor. Phosphodiesterase 5 inhibition rescues functional sympatholysis in Duchenne Muscular Dystrophy. *FASEB J*. 27:943.18, 2013.

Presentations

Can a Slumped Posture on an Emergency Department Gurney Compromise Breathing in Adults? Society of Academic Emergency Medicine annual meeting (2008)

Dissecting the Reason for Rehospitalization within 30 Days of Discharge: A Retrospective Study. Lutheran Medical Center Research Conference (2010)

Tutoring

University of California, Santa Barbara
St Georges University

Chemistry, Organic Chemistry, Biology
Clinical Skills, Biochemistry, Anatomy

Work Experience

2006-2007 Research Fellow, Ruth and Harry Roman Emergency Department
Cedars-Sinai Medical Center, Los Angeles, CA
Mentor: Paul Silka, M.D .

Extracurricular Activities

2005 – 2007 Volunteer Ski Patrol, Mountain High Ski Resort, Wrightwood, CA

Professional Organizations

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Fax: (843) 474-0712

NEW PATIENT EVALUATION

Patient Name: Jerry Arnette

Record #: 175098

Date: 03/07/2019

Date of Birth: [REDACTED]

Chief Complaint: Neck and low back pain.

History of Present Illness: The patient is a gentleman well known to me with history of previous arthroplasty C5 to C7 and lumbar decompression L4-5 for a foot drop, who presents with persistent neck, mid and low back pain with pain levels reaching 8-7/10. He also reports pain in the elbows bilaterally and legs bilaterally diffusely to the right ankle. Symptoms are worse with his job, where he arrives in trucks for long periods. It is also worse prolonged standing, sitting, and activities of daily living.

The patient report some gait impairment with stumbling forward as he walks. He is here today to discuss additional treatment options.

Social History: The patient is single.

Review of Systems:

Constitutional: Positive for fatigue. The patient denies weight loss, or weakness.

Skin: The patient denies rashes, pruritus, lesions, or bruising.

Head: The patient denies dizziness.

Eyes: Positive for wears glasses. The patient denies change in visual fields, photophobia, diplopia, inflammation, or discharge.

Ear, Nose, and Throat: Positive for sinus problems. Ears, the patient denies any hearing changes, tinnitus, pain, or discharge. Nose, the patient denies nosebleeds or obstructive polyps. Throat, the patient denies inflammation, lesions, discharge, or hoarseness. Mouth, the patient denies any dentures, lesions, or discharge.

Respiratory: Positive for asthma, shortness of breath. The patient denies shortness of breath, wheezing, cough, or hemoptysis.

Cardiovascular: Positive for chest pain, hypertension.

Gastrointestinal: Positive for constipation, indigestion. The patient denies nausea, vomiting, or diarrhea.

Genitourinary: Positive for difficulty starting urinary stream. The patient denies sexual dysfunction.

Endocrine: The patient denies polyphagia, polydipsia, polyuria, thyroid problems, glycosuria, or hormone therapy.

Musculoskeletal: Per HPI.

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(FAX)

P.003/010

Patient Name: Jerry Arnette

Record #: 175099

Date: 03/07/2019

Page 2

Hematologic: The patient denies anemia, bleeding tendencies, bruising easily.

Neurologic: Positive for memory problems. No lymphadenopathy.

Psychiatric: The patient denies any memory changes.

Past Medical History: Gout, bladder tension, benign prostatic hypertrophy, hypertension.

Past Surgical History: None.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 205 pounds. HEENT: Head is normocephalic. Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign. Sensation is intact to pinprick and light touch throughout. The patient has well-healed cervical incision. Physical exam of the cervical spine reveals tenderness to palpation of the cervical paraspinal muscle with palpable muscle spasm present. Trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is tender at the midline from C3 to C7 with limited range of motion and pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. The patient has well-healed lumbar incision. Physical exam of the lumbar spine reveals tenderness to palpation of the lumbar paraspinal muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient is tender at the midline from L3 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raises. Physical exam of the left elbow reveals tenderness to palpation at the medial epicondyle. There are similar findings in the right but less degree. There is no palpable bony deformity.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain.
3. Cervical disc disruption C4-5, status post C6-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.

12/12/2018 15:58

(FAX)

P.004/018

Patient Name: Jerry Arnette

Record #: 175099

Date: 03/07/2019

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Treatment/Recommendations: The patient would likely require L4-5 decompression and fusion at later date. He has extensive pain from cervical and lumbar discs as well as epicondylitis and multijoint polyarthropathy. I recommend the patient continue activity as tolerated as well as followup with pain management for additional treatment modalities.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

Dictated but not proof read

12/12/2019 15:59

(FAX)

P.005/010

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FOLLOWUP NOTE**Patient Name:** Jerry Arnette Jr.**Record #:** 175099**Date:** 08/16/2019**Date of Birth:** [REDACTED]

Subjective: The patient returns today for followup from his midback, neck and low back pain. He also reports some increasing mid back pain as well like her fist is striking in the middle of his back worse with pushing, pulling, and twisting. He had recent plain film imaging, x-rays are fairly unremarkable. He is here today to discuss additional treatment options. He reports a sharp stabbing sensation across the neck and midback radiating to the paraspinous muscles as well as low back with persistent burning in the right leg. He has undergone previous lumbar decompression by myself at L4-5. There is some residual radicular leg pain, disc herniation,

The patient had undergone anterior cervical discectomy with arthroplasty by myself as well with improvement in his axial neck pain, but again is still left with significant mid and low back pain.

Review of Systems:**General:** Negative for dizziness, chills, fevers or sweats.**Musculoskeletal:** Significant as in HPI.**Genitourinary:** Denies blood in urine, frequent urination, or lack of bowel or bladder control. Denies any sexual dysfunction.**Skin:** Denies bruising easily, itching or rashes.**Gastrointestinal:** Denies nausea, vomiting or indigestion.**Cardiovascular:** Denies chest pain.**HEENT:** Denies blurry vision, bleeding gums, double vision, earaches or hoarseness.**Medications:** Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.**Allergies:** Diclofenac.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 210 pounds. HEENT: Head is normocephalic. Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign.

12/12/2019 15:59

(FAX)

P.006/010

Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 08/16/2019
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Sensation is intact to pinprick and light touch throughout. The patient has well-healed cervical incision. Physical exam of the cervical spine reveals minimal tenderness to palpation of the cervical paraspinous muscle with no palpable muscle spasm present. No trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is nontender at the midline from C3 to C7 with normal range of motion and no pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. Physical exam of the thoracic spine reveals tenderness to palpation of the thoracic paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left trapezius and latissimus dorsi. The patient is tender at the midline from T4 to T8 with limited range of motion and pain at the endpoints. Physical exam of the lumbar spine reveals moderate tenderness to palpation of the lumbar paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient has moderate-to-severe tenderness at the midline from L3 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.
5. Axial midback pain.

Treatment/Plan: Given the patient's persistent mid back pain, I am recommending MRI imaging of the thoracic spine. I would like to get standing 36-inch films to evaluate for coronal deformity and scoliosis. In the interim, we will continue to have him follow up with pain management. He is going to see a doctor in Florence which is closer.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

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12/12/2019 15:59

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FOLLOWUP NOTE**Patient Name:** Jerry Arnette Jr.**Record #:** 175099**Date:** 09/18/2019**Date of Birth:** [REDACTED]

Subjective: The patient returns today in followup from his neck, mid and low back pain. He reports his neck pain is currently at a tolerable level; however, his mid back pain is quite severe radiating into the paraspinous muscles, worse with coughing and twisting. He states it is difficult to breathe often. Most of his pain is at the inferior portion of the scapula radiating down. He is unable to take nonsteroidal anti-inflammatories because of kidney disease and ulcers. He also reports some persistent low back and radicular right leg pain radiating into the dorsal right foot where he has undergone previous L4-5 decompression by myself, but has had some residual radiculopathy in spite of negative imaging.

The patient presents today with 36-inch plain films of the spine demonstrating multilevel degenerative changes, most notable from L3 to S1.

He also returned with MRI imaging of the thoracic spine showing multilevel disc disruptions at T1-2 and from T6 to T9. There is also dilated central canal at T5 to T8. The patient is here today to discuss additional treatment options.

Review of Systems:

General: Negative for dizziness, chills, fevers or sweats.

Musculoskeletal: Significant as in HPI.

Genitourinary: Denies blood in urine, frequent urination, or lack of bowel or bladder control. Denies any sexual dysfunction.

Skin: Denies bruising easily, itching or rashes.

Gastrointestinal: Denies nausea, vomiting or indigestion.

Cardiovascular: Denies chest pain.

HEENT: Denies blurry vision, bleeding gums, double vision, earaches or hoarseness.

Medications: Tramadol, Flexeril, gabapentin, Lasix, amlodipine, allopurinol.

Allergies: Diclofenac and other nonsteroidal anti-inflammatories that are contraindicated because of his kidney disease.

Physical Examination: General: The patient is a well-nourished and well-developed male who presents today for evaluation. Vital Signs: Stable. Afebrile. Height is 6 feet and weight is 212 pounds. HEENT: Head is normocephalic.

12/12/2019 15:59

(FAX)

P.008/010

Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 09/18/2019
Page 2

Neck: Supple. Chest: Nontender. Cardiovascular: Regular. Abdomen: Nontender. Neurological: Cranial nerves II through XII are grossly intact. Musculoskeletal: Reveals 5/5 strength throughout. Deep tendon reflexes are 2/4 throughout. Negative Hoffmann. Negative clonus. Negative Babinski sign. Sensation is diminished in the right dorsal foot distally, otherwise is intact to pinprick and light touch throughout. The patient has a well-healed cervical incision. Physical exam of the cervical spine reveals mild tenderness to palpation of the cervical paraspinous muscle with no palpable muscle spasm present. No trigger points are identified in the right and left splenius capitis, trapezius and rhomboids. The patient is mildly tender at the midline from occiput to C7 with normal range of motion and no pain at the endpoints. Negative Spurling's sign. Negative Lhermitte sign. Physical exam of the thoracic spine reveals moderate tenderness to palpation of the thoracic paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left trapezius and latissimus dorsi. The patient is moderate to severely tender at the midline from T4 to T12 with limited range of motion and pain at the endpoints. Physical exam of the lumbar spine reveals moderate to severe tenderness to palpation of the lumbar paraspinous muscles with palpable muscle spasms present. Trigger points are identified in the right and left quadratus lumborum. The patient has moderate-to-severe tenderness at the midline from L1 to S1 with limited range of motion and pain at the endpoints. No SI joint tenderness. Negative FABER's test. Negative straight leg raise.

Diagnostic Assessment:

1. Axial neck pain.
2. Axial low back pain with right lower extremity radiculopathy.
3. Cervical disc disruption C4-5, status post C5-7 anterior cervical discectomy, arthroplasty myself.
4. Lumbar disc disruption L3 to S1 status post L5 posterior decompression by myself.
5. Axial midback pain.
6. Chronic L5-S1 radicular changes.

Treatment/Plan: Unfortunately, the patient has been with disabling chronic radiculopathy with neurologic deficits and pain. He cannot take standard nonsteroidal anti-inflammatories, which would be helpful in treating his pain, but symptoms certainly qualified him for disability.

He would benefit from evaluation with pain management to see whether additional interventional therapy such as facet blocks and radiofrequency ablation are indicated.

Also, he could benefit from referral to rheumatology to see whether additional medications that he can be placed on. We are welcoming input from his primary

12/12/2019 15:59

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Patient Name: Jerry Arnette Jr.
Record #: 175099
Date: 08/18/2019
Page 3

care physician, Dr. Fitzgibbon and continue to manage him from this point.
Unfortunately, there is nothing else we can offer him surgically.

Jason M. Highsmith, M.D., FACS
Board Certified in Neurological Surgery
JMH/pmt

Dictated but not proofread

cc: Dr. Timothy Fitzgibbon in Dillon, South Carolina



Request for Medical Records

Customer Information

Report Date: April 5, 2019

RP ID: 4947259

Client Name: Standard Insurance Company Claims

Req. By: S Fisher

Simi.Hedberg@standard.com

Patient Information

Name: ARNETTE JR., JERRY M

D.O.B.: [REDACTED]

Policy/Cert: 00FC6930

Special Requirements:

Records from All health Care Providers. Please include all medical records, imaging/ diagnostic test results, and evaluations see by Dr. Richard Guyer, but not limited too. - Seen By: TEXAS BACK INSTITUTE

Provider Information

Provider: TEXAS BACK INSTITUTE
6020 W PARKER RD STE 200
ATTN: RELEASE OF INFORMATION / BEN
PLANO, TX 75093

Phone: (972) 608-5000

Fax: (972) 608-5018

Electronic Order Data (If Applicable)

Patient Name: ARNETTE JR., JERRY M

Patient DOB: [REDACTED]

Patient SSN: [REDACTED]

Policy Number: 00FC6930

ID2: Active

ID3:

Provider Data: TEXAS BACK INSTITUTE
6020 W PARKER ROAD #200

PLANO, TX 75093
9726085000

RECEIVED

APR 08 2019

Employee Benefits - LTD

R-374

Texas Back Institute - Plano

6020 W Parker Road Suite 200 Plano, TX 75093-8172
 9728085000 Fax: 9728085020

Print Date: April 5, 2019

Page 1
 Office Visit

11/07/2018 - Office Visit: N/P
Provider: Richard D Guyer MD
Location of Care: Texas Back Institute - Plano

Chief Complaint:

Chronic low back pain and right leg pain greater than left leg pain for over 2 years

History of Present Illness:

Jerry is a 49-year-old patient from South Carolina who states that he has been having prone to his lower back that radiates into both his legs and to the bottom of his feet for over 2 years. He has more symptoms on the right side than the left although he is experiencing symptoms on the left side as well he does get less muscle spasms on the left side. In 2016 Dr. Highsmith carried out a discectomy. He only had short-term relief. The pain has been settling getting worse. He has been through physical therapy after that. Subsequent 2017 he underwent artificial disc in his neck but continued to have problems with his low back. In fact his last able to work February 2017. At that time he was working as a commercial truck driver examiner. He is taking physical therapy is also been on gabapentin pain medication and muscle relaxants. He has markedly limited his activities his function activities are markedly diminished. He is also had 3 rhizotomies he has had dry needling as well as chiropractic. He is also tried back traction and use an inversion table. He comes in now for further evaluation. He also has had 5 previous injections.

What do you want to happen as a result of this visit?

less pain

How and when did your problem begin?

I've had it a long time.

Do you have any of the following problems?

Is your pain worse at night? no

Does your pain awaken you from sleep? yes

Does coughing affect your pain? yes

Do your legs tire/hurt if you walk too far? yes

IF YES, how far can you walk? 1 - 3 blocks

Is this relieved by resting your legs? no

Is this relieved by bending forward? no

Bladder Control (urine):

No problem

Bowel Control:

No problem

How does each of the following affect your pain?

Sitting: Worse

Walking: Worse

Lying down: Better

Rising from chair: Worse

Physical activity: Worse

Heat: Better

Cold: Better

Massage: No change

Current Back/Neck Pain

Have you ever had the following for your CURRENT back/neck pain:

Chiropractic care: Worse

Physical therapy: Worse

Print Date: April 5, 2018

Page 2
Office Visit

[illegible]

No change

Yes

Surgeon highsmith

CT scan less than 6 months

TRAMADOL HCL TABS (TRAMADOL HCL TABS) HISTORICAL MEDICATIONS

* ETODOLAC (Mild)

0266

Texas Back Institute - Plano
8020 W Parker Road Suite 200 Plano, TX 75093-8172
9726085000 Fax: 9726085020

Print Date: April 5, 2019
Page 3
Office Visit

Dr. Alberto J. R.
[REDACTED]

Smoking Status:
never smoker

Alcohol:

Beer: no
Wine: no
"Hard" drinks: no
Frequency of drinking: never
Do you have a history of heavy drinking? no

Effect of your back/neck pain on your lifestyle:

I describe my home setting as supportive of me during this time. yes
I describe my work setting as supportive of me during this time. no
My pain has affected my interaction with my family and friends. yes
The changes in my lifestyle due to my problem have been difficult for me. yes

What is your ability to enjoy life? Poor

Please indicate your current work status:
Physically unable to work due to back/neck problem

Before having back or neck pain, did you normally work:
full time

What is your usual occupation?

cpl license examiner

Do you like your work situation?

N/A

Has your pain affected your ability to do your job or any other daily activities?
yes

If YES, please explain:

cant work

Is there anything we have failed to ask that you believe is important for us to know?
no

REVIEW OF SYSTEMS

General: weight loss of more than 10 pounds

Cardiac: shortness of breath

Genitourinary: abnormal kidney function

Bones/Joints: shoulder pain, wrist/hand pain, hip pain, muscle weakness

Nervous System: headache

Mental Health: sleep disturbances

Physical Exam

Vital Signs:

Vital Signs Entered By: Shari D May MA (November 7, 2018 2:06 PM)

Height: 72 inches

Weight: 212 pounds

R 377

0267

Texas Back Institute - Plano6020 W Parker Road Suite 200 Plano, TX 75093-8172
9726086000 Fax: 9726086020

Print Date: April 5, 2019

Page 4
Office Visit

BMI: 28.86
Pulse rate: 65 / minute
BP sitting: 127 / 90

On examination he is a pleasant well-developed 49-year-old patient who is in no acute distress. He has a well-healed midline incision about the L4-5 level flexion-extension are limited with pain. He can walk on his heels and toes normally. EHL and TA are 5/5 sensory examination is diminished of the right anterior right lower leg and plantar aspect of the right foot EHL and TA are 5/5 in walk in his heels and toes normally

Radiology / Imaging review:**X-Ray review:**

X-ray performed in office today

Plain x-ray shows 5 mobile lumbar segments on lateral flexion extension there is no gross instability appreciated there is marked narrowing at the L5-S1 level with retrolisthesis and anterior spurring.

MRI review:

MRI reviewed in office today

Review of his MRI scan shows that he has desiccation and narrowing at the L3-4 level but no sinus can facet abnormalities. At the L4-5 level he has what looks like a previous laminotomy at the right side of 4 5. At L5-S1 there is retrolisthesis as well as some mild facet joint asymmetry on the left on films dated 9/28/18.

Assessment for Today's Visit:

Chronic function limiting low back pain with right leg pain greater than left pain equal with failure of extensive conservative treatment including previous lumbar laminectomy at L4-5, physical therapy, multiple injections, facet rhizotomy, medications, gabapentin, chiropractic, with desiccation L3-4 L4-5 and L5-S1 with some minor facet abnormality at the L5-S1 level on the left

Status post neck surgery

Plan for today's visit:

I explained to Jerry that at this point I would recommend that we have him undergo lumbar discography in bone density. He would like to do this back in North Carolina. He will research the best place to have the discography done if not he will come back to TBI and have Dr. Balter do it. I do think that he may be a candidate for a 3 level hybrid the pain with the CT discogram does to evaluate the facet joints. Clearly the L3-4 level if it is symptomatic he would be a candidate. His insurance runs out at the end of February and he would like me to submit this so I will do this understanding that we do not have all the information but at least we can see what his insurance will pay for and not pay for.

New Medications for today's visit:

Proair ()

Pantoprazole ()

Allopurinol ()

Mobic tabs (Meloxicam tabs) HISTORICAL MEDICATIONS

Cyclobenzaprine hcl tabs (Cyclobenzaprine hcl tabs) HISTORICAL MEDICATIONS

Amlodipine besylate tabs (Amlodipine besylate tabs) HISTORICAL MEDICATIONS

Losartan potassium tabs (Losartan potassium tabs) HISTORICAL MEDICATIONS

Neurontin tabs (Gabapentin tabs) HISTORICAL MEDICATIONS

Tramadol hcl tabs (Tramadol hcl tabs) HISTORICAL MEDICATIONS

Problems added in today's visit:

Lumbago with sciatica, unspecified side (ICD-724.3) (ICD10-M54.40)

Other intervertebral disc degeneration, lumbar region (ICD-722.52) (ICD10-M51.36)

R 378**Orders for today's visit:****0268**



Factors of Complaint

Patient Name: Jerry Arnette

Patient ID: 264933

Patient DOB: [REDACTED]

What do you want to happen as a result of this visit? How and when did your problem begin?

less pain

☐ I don't know how it began.☐ It comes and goes.☒ I've had it a long time. () years☐ Injury (date of injury) On the job? () yes (X) no

Please explain how the injury happened

Are you currently in litigation with regards to your () yes (X) no back pain?

Have you been laid off from your job? (X) yes () no () n/a

Do you have any of the following problems?

Is your pain worse at night? () yes (X) no

Does your pain awaken you from sleep? (X) yes () no

Does coughing affect your pain? (X) yes () no

Do your legs tire/hurt if you walk too far? (X) yes () no

IF YES, how far can you walk? () less than 1 block (X) 1 - 3 blocks
() more than 3 blocks

Is this relieved by resting your legs? () yes (X) no

Is this relieved by bending forward? () yes (X) no

Bladder Control (urine):

☒ No problem☐ Can't empty bladder☐ Loss of urine (accidents)

Bowel Control:

☒ No problem☐ Constipation☐ Loss of control (accidents)

How does each of the following affect your pain? (check your answer)

Sitting: () Better (X) Worse () No change

Standing: () Better (X) Worse () No change

Walking: () Better (X) Worse () No change

Lying down: (X) Better () Worse () No change

Rising from chair: () Better (X) Worse () No change

Physical activity: () Better (X) Worse () No change

Heat: (X) Better () Worse () No change () Don't know

Cold: (X) Better () Worse () No change () Don't know

Massage: () Better () Worse (X) No change () Don't know

Current Back/Neck Pain

We need to know about the treatments you have already received for your CURRENT back/neck pain. If YES, did it make your condition better or worse?

Have you had for your CURRENT back/neck pain:

Chiropractic care: () Better (X) Worse () No change

Physical therapy: () Better (X) Worse () No change

Injections: () Better (X) Worse () No change

Psychological consultation: () Better () Worse (X) No change

Other: () Better () Worse (X) No change

For your current back/neck pain, please mark the boxes for the timeframe that any tests were done.

☐ No previous testing done

X-rays: () less than 6 months () 6 to 12 months

MRI scan: (X) less than 6 months () 6 to 12 months

Have you ever had surgery on your back or neck?

☒ Yes () No

If YES, complete the following:

1) Type of surgery: artificial disc neck

Date: 2017

Surgeon: jason highsmith

Did it make your pain: (X) better () worse

2) Type of surgery: disc herniation

Date: 2016

Surgeon: highsmith

Did it make your pain: () better () worse

3) Type of surgery:

Date:

Surgeon:

T. CRIPPS, DVM, MS, DACVIM

264933

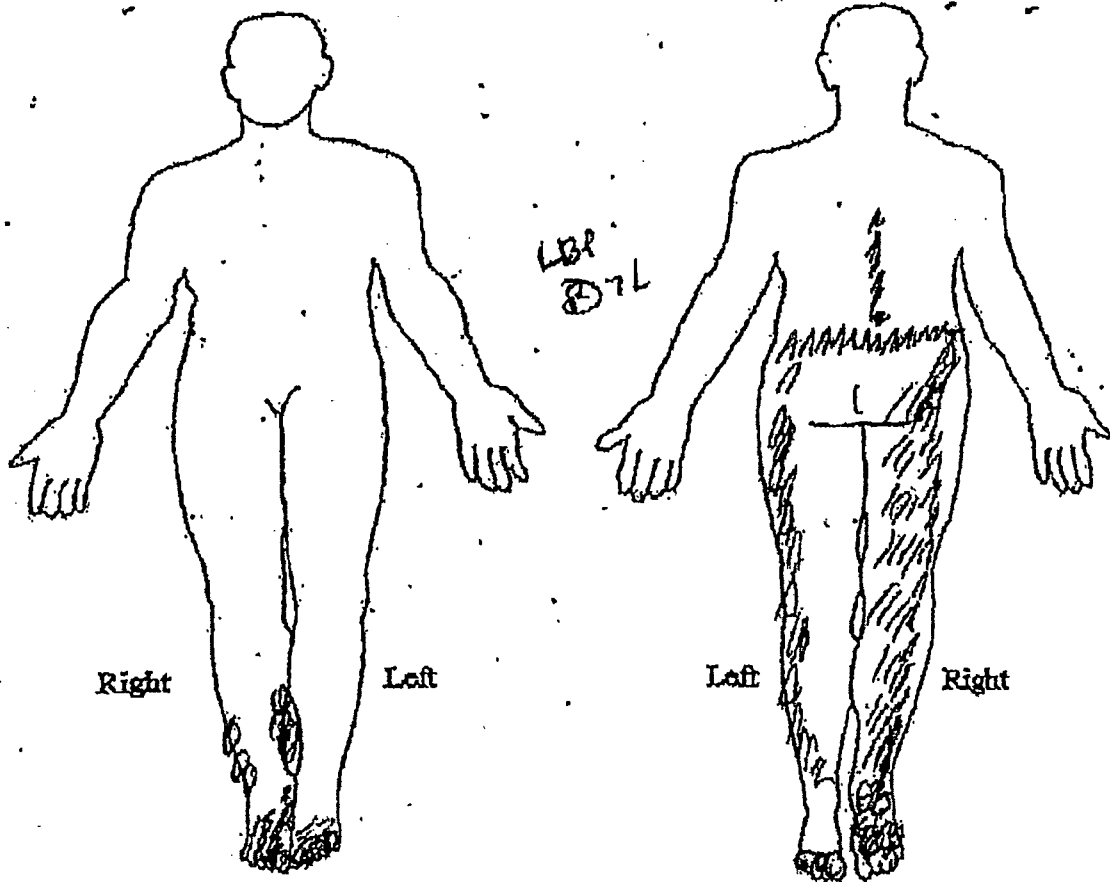
Texas Back Institute

PAIN DIAGRAM

Name TERRY M. ANCHUTZ DOB [REDACTED] Gender M F Date 11-7-18Please tell us which provider you are seeing today: DR. GUYER

Using the symbols described in the boxes below, please mark the areas where you experience the following sensations:

Ache
AAAA
Numbness
0000
Pins & Needles
=====
Burning
xxxx
Stabbing

How bad is your low back pain?0 1 2 3 4 5 6 7 8 9 10How bad is your leg pain?0 1 2 3 4 5 6 7 8 9 10How bad is your middle back pain?0 1 2 3 4 5 6 7 8 9 10How bad is your neck pain?0 1 2 3 4 5 6 7 8 9 10How bad is your arm pain?0 1 2 3 4 5 6 7 8 9 10

Patient: Arnette Jr, Jerry
Account Number: 18119
DOB: [REDACTED] Age: 49 Y Sex: Male
Phone: [REDACTED]
Address: 555 Pearlie Road, Dillon, SC-29536

Provider: Timothy Andrew Fitzgibbon, MD

Date: 12/27/2018

Subjective:**Chief Complaints:**

1. Car/ov.

HPI:General:

Here to review labwork also carotid studies were normal.

ROS:

Follow up chronic problems and medication review.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

Surgical History: Wisdom Teeth Extraction 1989, L4-L5 surgery 5/2016, Cervical Disc 02/2017, Cataract surgery left eye 05/2017, debridement of left great toe 04/2017, deviated septum-sinus surgery-Dr. McKay-Florence-ENT 7/26/2017.

Hospitalization/Major Diagnostic Procedure: L4-L5 surgery 5/2016, cervical disc 2/2017, deviated septum 7/26/2017, hemorrhoidectomy/Dr Player 11/2018.

Family History: Father: alive, HTN, diagnosed with Hypertension. Mother: alive, healthy. Paternal Grand Father: deceased. Paternal Grand Mother: deceased. Maternal Grand Father: deceased. Maternal Grand Mother: alive. Siblings: alive. Children: NONE. 1 sister(s) . .
1 sister as of 6-22-2016.

Social History: Smoking Are you a : nonsmoker, Additional Findings: Tobacco Non-User Aggressive non-smoker. Secondhand smoke No secondhand smoke contact noted No. Dental Health The patient has a dental check-up yearly Yes. Stress Family Stress noted No, Work Stress noted No. Tobacco Use : none. Military Service N/A no military service . Education Education high school, college. Alcohol Screen Did you have a drink containing alcohol in the past year? No, Points 0, Interpretation Negative. Sexual History Had sex in the past 12 months (vaginal, oral, or anal) No, Have you ever had an STD? No. Education and self-management tools given information provided 12/27/2018 self. Self-Management: yes. Medication barriers and adherence Discussed medication adherence with patient 12/27/2018 No problems with medication adherence. Discharge medications Reviewed and reconciled. N/A. OTC medications, herbal therapies and supplements Reviewed and documented. Yes 7/16/2018. Care Plan Given to patient. N/A. Immunizations The patient was assessed and informed to have age appropriate immunizations. 12/27/2018. Drug use Past use. No. Marital Status: single. Children: N/A. Occupation: SC DMV. Religion: Christian, Baptist. Exercise: no. Caffeine soft drinks 12/27/2018, tea 12/27/2018, coffee 12/27/2018. Travel outside US: no. Occup. exposure: no. Home smoke detector use Yes, anticipatory guidance was given Advised to check batteries every 3 months. Pets: yes, dogs.

Medications: Taking ProAir HFA 90 mcg/Inh aerosol 2 puff(s) inhaled 4 times a day, Taking pantoprazole 40 mg delayed release tablet 1 tab(s) orally once a day, Taking Centrum Performance Antioxidant Multiple Vitamins and Minerals tablet 1 tab(s) orally once a day, Taking cyclobenzaprine 10 mg tablet 1 tab(s) orally 3 times a day prn, Taking montelukast 10 mg tablet 1 tab(s) orally once a day, Taking docusate sodium 100 mg tablet 1 tab(s) orally 2 times a day, Taking Turmeric OTC 1 po bid, Taking Breo Ellipta 200 mcg-25 mcg/Inh powder 1 puff(s) inhaled once a day, Taking TENS unit as directed for back pain as directed, Taking hyoscyamine 0.375 mg tablet, extended release 1 tab(s) orally every 12 hours, Taking tramadol 50 mg tablet 1 tab(s) orally tid prn for pain, Taking Flomax 0.4 mg capsule 1 cap(s) orally once a day, Taking allopurinol 100 mg tablet 1 tab(s) orally twice daily, Taking amlodipine 10 mg tablet 1 tab(s) orally once a day, Medication List reviewed and reconciled with the patient

Allergies: N.K.D.A.**Objective:****Vitals:** Temp 98.6, BP 118/80, HR 71, Ht 72, Wt 219.0, BMI 29.70.

R-390

0271

Patient: Arnette Jr, Jerry
Account Number: 18119
DOB: [REDACTED] **Age:** 49 Y **Sex:** Male
Phone: [REDACTED]
Address: 555 Pearlle Road, Dillon, SC-29536

Provider: Timothy Andrew Fitzgibbon, MD
Date: 12/26/2018

Subjective:

Chief Complaints:

1. discuss BP meds/review oth medication . 2. Discuss having labs. 3. Kg 8:05.

HPI:

General:

Patient concerned over a recall notice of his blood pressure medicine also recently recovering from hemorrhoid surgery denies chest pain shortness of breath. He has strong family history of Alzheimer's disease and peripheral vascular and coronary disease. Patient denies headache blurry vision tinnitus or chest pain.

ROS:

MUSCULOSKELETAL:

Back Pain lower back pain that radiates down to bilateral legs.
discuss medications.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

Surgical History: Wisdom Teeth Extraction 1989, L4-L5 surgery 5/2016, Cervical Disc 02/2017, Cataract surgery left eye 05/2017, debridement of left great toe 04/2017, deviated septum-sinus surgery--Dr. McKay-Florence-ENT 7/26/2017.

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1 sister as of 6-22-2016.

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09/28/2018 10:52:52 AM -0400

PAGE 1 OF 2

RADIOLOGY REPORT

McLEOD MEDICAL CENTER - DILLON

301 EAST JACKSON STREET DILLON, SC 29536

PHONE (843) 774-1280

PATIENT NAME: ARNETTE, JERRY MONROE
PT ACCOUNT#: 000009478207
ACCESSION#: 8839935

DISCHARGE DATE:
MR/RAD#: 3026071
CID#: 857241

DOB: [REDACTED] AGE: 49Y
PHONE: [REDACTED]
ADDRESS: 555 PEARLIE RD

SEX: M RACE: W
PT CLASS: O FIN CLASS: V
PT TYPE: R PTNS/ROOM: -
DATE OF SERVICE: Sep 28 2018 8:54AM

ORDER DR: TIMOTHY A FITZGIBBON M.D.
ATTEND DR: TIMOTHY A FITZGIBBON M.D.

COPY TO:
DIAGNOSIS: M54.17 RADICULOPATHY LUMB

ORDER DR: TIMOTHY A FITZGIBBON M.D.
ATTEND DR: TIMOTHY A FITZGIBBON M.D.

TRANSCRIBED D/T: Sep 28 2018 10:27AM

PROCEDURE: MRI LUMBAR WO / ORD #: 90007 Accession#: 8839935 CPT: 72148

ORDERED FOR: Sep 28 2018 8:08AM COMPLETED: Sep 28 2018 8:54AM

INDICATIONS/COMMENTS: (Other)-M54.17 Radiculopathy, lumbosacral region

RESULT: PROCEDURE: MRI lumbar spine without contrast

INDICATION: Back pain.

TECHNIQUE: Multi/sequence multiplanar MRI of the lumbar spine was performed without the administration of IV contrast.

COMPARISON: None.

FINDINGS:

There is normal alignment of the vertebral bodies of the lumbar spine. There is moderate to marked disc height loss, and moderate disc desiccation at the L5-S1 vertebral level. There is moderate disc at loss and mild to moderate disc desiccation at the L3-L4, and L4-L5 vertebral body levels. Remainder of the disc spaces, and the vertebral body heights are preserved. No acute fractures or dislocations. No spondylolysis or spondylolisthesis. No abnormal soft tissue swelling are noted adjacent to the vertebral bodies of the lumbar spine. There is normal signal intensity both T1 and T2-weighted sequences throughout the bone marrow of the vertebral bodies of the lumbar spine. The conus is normal in size, shape, and signal intensity terminating at the T12 vertebral body level. No vertebral canal stenosis was noted.

At the T12-L1 vertebral body level no vertebral canal or neuroforamina stenosis is noted.

At the L1-L2 vertebral body level there is mild bilateral facet hypertrophy and minimal posterior disc osteophyte complexes which do not cause any vertebral canal, or neuroforamina stenosis.

At the L2-L3 vertebral body level, no vertebral canal, or neuroforamina stenosis was noted.

At the L3-L4 vertebral body level there is mild bilateral facet, and ligamentum flavum hypertrophy, right slightly greater than left, and a small wide posterior disc bulge, tiny posterior disc osteophyte complexes which do not cause any vertebral canal stenosis. There is mild right and minimal left neuroforamina stenosis.

Printed: September 28, 2018 (10:55AM)

Page 1

CAROLINA RADIOLOGY ASSOCIATES

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0273

Patient: Arnette Jr, Jerry
Account Number: 18119
DOB: [REDACTED] **Age:** 49 Y **Sex:** Male
Phone: [REDACTED]
Address: 555 Pearlle Road, Dillon, SC-29536

Provider: Timothy Andrew Fitzgibbon, MD

Date: 09/20/2018

Subjective:

Chief Complaints:

1. Ov. 2. Lower back /neck /bilateral leg pain. 3. Kg 10:51.

HPI:

Depression/Suicide Scales:

Patient also had nerve ablation and nerve block injections. Patient states he hurts on a daily basis. Patient states he feels like an old man. He has generalized pain and aches and stiffness muscle aches and joint pain easy fatigability but most specifically lower back pain with radicular symptoms to the legs with numbness to the legs and difficulty with ambulation. He has been evaluated by rheumatology and diagnosed with osteoarthritis and gout he has also seen nephrology for renal insufficiency and he was scheduled to see endocrinology to rule out any other source of fatigue. He has had low testosterone levels in the past. Patient requests for the referral for the second surgical opinion from the specialist in Texas and he will need a repeat MRI before they will accept him. He has appointment with endocrinology in the next 3 weeks to discuss and further evaluate for low T and fatigue.

ROS:

MUSCULOSKELETAL:

Joint Swelling Bil elbows. Back Pain lower, bil leg pain, upper back.
 Follow up chronic problems and medication review.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

Surgical History: Wisdom Teeth Extraction 1989, L4-L5 surgery 5/2016, Cervical Disc 02/2017, Cataract surgery left eye 05/2017, debridement of left great toe 04/2017, deviated septum-sinus surgery--Dr. McKay-Florence-ENT 7/26/2017.

Hospitalization/Major Diagnostic Procedure: L4-L5 surgery 5/2016, cervical disc 2/2017, deviated septum 7/26/2017.

Family History: Father: alive, HTN, diagnosed with Hypertension. Mother: alive, healthy. Paternal Grand Father: deceased. Paternal Grand Mother: deceased. Maternal Grand Father: deceased. Maternal Grand Mother: alive. Siblings: alive. Children: NONE. 1 sister(s) . .
 1 sister as of 6-22-2016.

Social History: Smoking Are you a : nonsmoker, Additional Findings: Tobacco Non-User Aggressive non-smoker. Secondhand smoke No secondhand smoke contact noted No. Dental Health The patient has a dental check-up yearly Yes. Stress Family Stress noted No, Work Stress noted No. Tobacco Use : none. Military Service N/A no military service. Education Education high school, college. Alcohol Screen Did you have a drink containing alcohol in the past year? No, Points 0, Interpretation Negative. Sexual History Had sex in the past 12 months (vaginal, oral, or anal) No, Have you ever had an STD? No. Education and self-management tools given Information provided 09/20/2018 self. Self-Management: yes. Medication barriers and adherence Discussed medication adherence with patient 10/18/2017 No problems with medication adherence. OTC medications, herbal therapies and supplements Reviewed and documented. Yes 7/16/2018. Immunizations The patient was assessed and informed to have age appropriate immunizations. 08/04/2017. Drug use Past use. No. Marital Status: single. Children: N/A. Occupation: SC DMV. Religion: Christian, Baptist. Exercise: no. Caffeine soft drinks 10/18/2017, tea 10/18/2017, coffee 10/18/2017. Travel outside US: no. Occup. exposure: no. Home smoke detector use Yes, anticipatory guidance was given Advised to check batteries every 3 months. Pets: yes, dogs.

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Taking TENS unit as directed for back pain as directed, Taking hyoscyamine 0.375 mg tablet, extended release 1 tab(s) orally every 12 hours, Taking tramadol 50 mg tablet 1 tab(s) orally tid prn for pain, Taking celecoxib 200 mg capsule 1 cap(s) orally q day prn joint or muscle pain, Taking Losartan Potassium 50 mg tablet 1 tab(s) orally bid for HTN, Taking amlodipine 5 mg tablet 1 tab(s) orally once a day, Medication List reviewed and reconciled with the patient

Allergies: N.K.D.A.

Objective:

Vitals: Temp 98.6, BP 113/79, HR 69, Ht 72, Wt 218.4, BMI 29.62.

Examination:

General Examination:

General Appearance: NAD, alert and oriented.

HEENT: Head - NC/AT, PERRLA, clear conjunctiva, Oropharynx clear with MMM.

Chest: normal shape and expansion.

Heart: Regular rate and rhythm, no murmurs.

Lungs: clear to auscultation bilaterally, no wheezes/rhonchi/rales.

Abdomen: Soft, Non-tender, Non-distended with Normal Bowel Sounds.

Extremities: no clubbing, no edema.

Peripheral pulses: normal (2+) bilaterally.

Psychological Evaluation Mood normal and normal interaction.

Assessment:

Assessment:

1. Body mass index (BMI) of 29.0-29.9 in adult - Z68.29 (Primary)
2. Chronic pain - G89.29
3. CKD (chronic kidney disease) - N18.9
4. Gout - M10.9
5. Testosterone deficiency - E29.1
6. Chronic fatigue - R53.82
7. Lumbar back pain with radiculopathy affecting right lower extremity - M54.17

Plan:

1. CKD (chronic kidney disease)

LAB: BASIC METABOLIC PROFILE

SODIUM	143	136-145 - mEq/L
POTASSIUM	4.0	3.5-5.1 - mEq/L
CHLORIDE	106	98-107 - mEq/L
CARBON DIOXIDE	30	21-32 - mEq/L
GLUCOSE	106	70-126 - mg/dL
BUN	13	7-18 - mg/dL
CREATININE	1.2	0.6-1.3 - mg/dL
CALCIUM	9.3	8.5-10.1 - mg/dL
BUN/CREAT RATIO	10.8	12.0-20.0 - CALC
GFR	>60	>=60 - ml/min/1.73m ²
GFR AFRICAN AMERICAN	>60	>=60 - ml/min/1.73m ²
OSMOLALITY	296.5	275.0-300.0 - CALC

LAB: COMPLETE BLOOD COUNT

WBC	5.9	4.1-10.9 - x10 ³ /UL
HGB	15.2	12.0-17.7 - g/dL
HCT	44.1	37.0-51.0 - %
PLT	209	140-440 - x10 ³ /UL
RBC	5.06	4.20-6.30 - x10 ⁶ /UL
MCV	87.1	80.0-97.0 - fL
MCH	30.0	26.0-32.0 - PG
MCHC		31.0-36.0 - g/dL

R3403

RDW	14.4	11.5-14.5 - %
GRAN#	3.8	2.0-7.8 - x10 ³ /UL
LYMPH#	1.5	0.6-4.1 - x10 ³ /UL
MONO#	0.6	0.0-1.8 - x10 ³ /UL
GRAN%	65.1	37.0-92.0 - %
LYMPH%	24.9	10.0-58.5 - %
MONO%	10.0	0.1-24.0 - %

LAB: MICROALBUMIN**ALBUMIN TO CREATININE RATIO**

ALBUMIN

CREATININE

<30		
mg/g	A	<30 mg/G -
Normal		
10 mg/L		0-20 mg/L -
100		
mg/dL		10-300 mg/dL -

2. Gout**LAB: URIC ACID**

URIC ACID

6.2	2.6-7.2 - mg/dL

FITZGIBBON, TIMOTHY A, MD 9/20/2018 12:54:23 PM > tell pt lab results. all look good

3. Lumbar back pain with radiculopathy affecting right lower extremity**LAB: ESR**

SED RATE

2	<=10 - mm/hr

LAB: CPK

Creatine Kinase, Total, Serum

129	24-204 - U/L

Referral To:

Reason: please refer to Dr Richard Guyer in Plano Texas for his back at pt request.

Immunizations:

Flu 3+years and Adults 0.5 : 0.5 (Route: Intramuscular) given by Sandra Deese LPN on Left Deltoid

Procedure Codes: 90658 Flu 3+years and Adults 0.5

Follow Up: 4 Weeks

Care Plan:

Problems:

Provider: Timothy Andrew Fitzgibbon, MD

Patient: Arnette Jr, Jerry DOB: [REDACTED] Date: 09/20/2018

Timothy A. Fitzgibbon

Electronically signed by TIMOTHY FITZGIBBON MD, MD on 09/24/2018 at 03:15 PM EDT
 Sign off status: Completed

Patient: Arnette Jr, Jerry
 Account Number: 18119
 DOB: [REDACTED] Age: 48 Y Sex: Male
 Phone: [REDACTED]

Provider: Timothy Andrew Fitzgibbon, MD

Date: 07/16/2018

R 404**0276**

Address: 555 Pearlle Road, Dillon, SC-29536

Subjective:

Chief Complaints:

1. Review BP monitor results. 2. Kg 10:22.

HPI:

General:

Patient presents to review his blood pressure monitor. He does have some elevated blood pressure readings. Otherwise still has complaint of generalized fatigue and muscle aches. His ophthalmologist recommended MRI to evaluate for possible multiple sclerosis according to the eye exam. Patient having no neurologic deficits otherwise blood pressure elevated lab work reviewed in detail also with chronic fatigue and chronic low testosterone level.

ROS:

CARDIOLOGY:

Positive for ABPM test results.

Follow up chronic problems and medication review.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

Surgical History: Wisdom Teeth Extraction 1989, L4-L5 surgery 5/2016, Cervical Disc 02/2017, Cataract surgery left eye 05/2017, debridement of left great toe 04/2017, deviated septum-sinus surgery--Dr. McKay-Florence-ENT 7/26/2017.

Hospitalization/Major Diagnostic Procedure: L4-L5 surgery 5/2016, cervical disc 2/2017, deviated septum 7/26/2017.

Family History: Father: alive, HTN, diagnosed with Hypertension. Mother: alive, healthy. Paternal Grand Father: deceased. Paternal Grand Mother: deceased. Maternal Grand Father: deceased. Maternal Grand Mother: alive. Siblings: alive. Children: NONE. 1 sister(s) . . 1 sister as of 6-22-2016.

Social History: Smoking Are you a : nonsmoker, Additional Findings: Tobacco Non-User Aggressive non-smoker. Secondhand smoke No secondhand smoke contact noted No. Dental Health The patient has a dental check-up yearly Yes. Stress Family Stress noted No, Work Stress noted No. Tobacco Use : none. Military Service N/A no military service . Education Education high school, college. Alcohol Screen Did you have a drink containing alcohol in the past year? No, Points 0, Interpretation Negative. Sexual History Had sex in the past 12 months (vaginal, oral, or anal) No, Have you ever had an STD? No. Education and self-management tools given Information provided 08/04/2017 self. Self-Management: yes. Medication barriers and adherence Discussed medication adherence with patient 10/18/2017 No problems with medication adherence. OTC medications, herbal therapies and supplements Reviewed and documented. Yes 7/16/2018. Immunizations The patient was assessed and informed to have age appropriate immunizations. 08/04/2017. Drug use Past use. No. Marital Status: single, Children: N/A. Occupation: SC DMV. Religion: Christian, Baptist. Exercise: no. Caffeine soft drinks 10/18/2017, tea 10/18/2017, coffee 10/18/2017. Travel outside US: no. Occup. exposure: no. Home smoke detector use Yes, anticipatory guidance was given Advised to check batteries every 3 months. Pets: yes, dogs.

Medications: Taking ProAir HFA 90 mcg/inh aerosol 2 puff(s) inhaled 4 times a day, Taking allopurinol 100 mg tablet 1 tab(s) orally twice daily, Taking pantoprazole 40 mg delayed release tablet 1 tab(s) orally once a day, Taking Centrum Performance Antioxidant Multiple Vitamins and Minerals tablet 1 tab(s) orally once a day, Taking cyclobenzaprine 10 mg tablet 1 tab(s) orally 3 times a day prn, Taking montelukast 10 mg tablet 1 tab(s) orally once a day, Taking docusate sodium 100 mg tablet 1 tab(s) orally 2 times a day, Taking Turmeric OTC 1 po bid, Taking Breo Ellipta 200 mcg-25 mcg/inh powder 1 puff(s) inhaled once a day, Taking TENS unit as directed for back pain as directed, Taking hyoscyamine 0.375 mg tablet, extended release 1 tab(s) orally every 12 hours, Taking tramadol 50 mg tablet 1 tab(s) orally tid prn for pain, Taking valsartan 80 mg tablet 1 tab(s) orally once a day for HTN, Taking celecoxib 200 mg capsule 1 cap(s) orally q day prn joint or muscle pain

Allergies: N.K.D.A.

Objective:

Vitals: Temp 98.2, BP 116/80, HR 80, Ht 72, Wt 216.6, BMI 29.37.

R 406

0277

Patient: Arnette Jr, Jerry
Account Number: 18119
DOB: [REDACTED] **Age:** 48 Y **Sex:** Male
Phone: [REDACTED]
Address: 555 Pearlle Road, Dillon, SC-29536

Provider: Timothy Andrew Fitzgibbon, MD
Date: 06/13/2018

Subjective:**Chief Complaints:**

1. Ov. 2. Triaged by Ir 01022. 3. Abd and chest pain. 4. Fever. 5. Nausea. 6. Rash lft side abd and rt hip. 7. b-brief ROS.

HPI:**Dermatology:**

48 year old male presents with c/o rash Rash present on Lt side of abd last month that has cleared up. Pt stated that the rash appeared on his Rt hip, but it has now cleared up.. c/o Dermatology cyst on Lt breast. Pt stated that he feels like the pain is coming from the cyst..

Patient with recurrent vesicular rash over his chest and right thigh also painful mass in his left breast also sometimes has pain in his right lower abdomen patient with recurrent fever over the past week decreased energy. He would like lab work drawn also.

Constitutional:

c/o FEVER low grade off and on x 2 weeks..

Gastroenterology:

c/o NAUSEA without food when he first gets up in the a.m and right before he goes to bed..

ROS:**CONSTITUTIONAL:**

Loss of Appetite none. Night Sweats none. Significant change in weight No.

DERMATOLOGY:

Lesions No concerning mole or rash.

ENT:

Cough none. Hoarseness denies. Sore Throat none. Otalgia none. Ear no hearing loss.

CARDIOLOGY:

Chest Pain none. Palpitations Denies. Shortness of Breath none with normal activity.

Orthopnea none. Peripheral Edema none.

GASTROENTEROLOGY:

Abdominal Pain none. Vomiting none. Constipation none. Diarrhea none. Blood In Stool none.

Change in Bowel Habits none. Indigestion: none.

MUSCULOSKELETAL:

Joint Pain none. Back Pain none. Loss Of Strength none. Deformities none.

RESPIRATORY:

Shortness of Breath none. Chest Congestion none. Persistent Cough none. Wheezing none.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

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1 sister as of 6-22-2016.

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Military Service N/A no military service . Education Education high school, college. Alcohol Screen Did you have a drink containing alcohol in the past year? No, Points 0, Interpretation Negative. Sexual History Had sex in the past 12 months (vaginal, oral, or anal) No, Have you ever had an STD? No. Education and self-management tools given Information provided 08/04/2017 self. Self-Management: yes. Medication barriers and adherence Discussed medication adherence with patient 10/18/2017 No problems with medication adherence. OTC medications, herbal therapies and supplements Reviewed and documented. Yes 1/18/2018. Immunizations The patient was assessed and informed to have age appropriate immunizations. 08/04/2017. Drug use Past use. No. Marital Status: single. Children: N/A. Occupation: SC DMV. Religion: Christian, Baptist. Exercise: no. Caffeine soft drinks 10/18/2017, tea 10/18/2017, coffee 10/18/2017. Travel outside US: no. Occup. exposure: no. Home smoke detector use Yes, anticipatory guidance was given Advised to check batteries every 3 months. Pets: yes, dogs.

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Allergies: N.K.D.A.

Objective:

Vitals: Temp 98.6, BP 127/83, HR 65, Ht 72, Wt 219.0, BMI 29.70.

Examination:

Gastroenterology:

General Appearance: pleasant, NAD.
Oral cavity: normal.
Sclera: anicteric.
Heart sounds: regular, normal S1 S2 , no murmurs.
Lungs: clear, no crackles or wheezes.
Abdomen: soft, BS present; no guarding or rigidity, no masses felt.
Abdominal tenderness: none.
Hernias: none.
Chest left breast with soft tissue mass thumb size soft pilable not fixed.

Assessment:

Assessment:

1. Lumbar back pain with radiculopathy affecting right lower extremity - M54.17 (Primary)
2. Elevated blood pressure - I10
3. Testosterone deficiency - E29.1
4. Mixed hyperlipidemia - E78.2
5. History of gout - Z87.39
6. CKD (chronic kidney disease) - N18.9
7. Left breast mass - N63.20
8. History of fever - Z87.898

Plan:

1. Lumbar back pain with radiculopathy affecting right lower extremity

LAB: CPK

Creatine Kinase, Total, Serum

150

24-204 - U/L

RECEIVED

2. Elevated blood pressure

LAB: BASIC METABOLIC PROFILE

SODIUM

141

136-145 - mEq/L

POTASSIUM

4.2

3.5-5.1 - mEq/L

FEB 2 2019

R 421

0279

Patient: Arnette Jr, Jerry
Account Number: 18119
DOB: [REDACTED] **Age:** 48 Y **Sex:** Male
Phone: [REDACTED]
Address: 555 Pearlie Road, Dillon, SC-29536

Provider: Timothy Andrew Fitzgibbon, MD
Date: 01/18/2018

Subjective:

Chief Complaints:

1. OV. 2. Swelling w/tenderness on rt side of neck. 3. Discuss lab results. 4. Soreness in rt elbow /pain when lifting. 5. Kg 11:56.

HPI:

PCMH1:

Patient presents for several reasons #1 would like to review his recent lab work #2 having pain in the lateral right elbow difficulty with lifting or pushing or pulling symptoms for about a week or 2. #3 has tender enlarged lymph node anterior cervical chain that Angle of the jaw on the right he does admit to some mild congestion may be cough and sore throat.

ROS:

ENT:

Positive for Rt. side neck throat area pain.

MUSCULOSKELETAL:

Joint Pain Rt. elbow pain.

Medical History: Lumbar back pain with radiculopathy affecting right lower extremity, Vitamin D deficiency, Elevated blood pressure, Testosterone deficiency, COPD mixed type, Obesity (BMI 30.0-34.9), Chronic fatigue, Cervical disc disease, Mixed hyperlipidemia, Arthritis, History of gout, Gout.

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valsartan 80 mg tablet 1 tab(s) orally once a day for HTN, Discontinued
brompheniramine/dextromethorphan/PSE 2 mg-10 mg-30 mg/5 mL syrup 5 ml orally 4 times a day,
Discontinued Flonase 50 mcg/inh spray 1 spray(s) intranasally once a day, Discontinued Azithromycin 250
mg tablet 2 tablets on the first day, then 1 tablet daily for 4 days orally once a day, Discontinued Lasix 20
mg tablet 1/2 tab orally once a day for edema prn, Medication List reviewed and reconciled with the patient

Allergies: N.K.D.A.

Objective:

Vitals: Temp 98.9, BP 120/64, HR 75, Ht 72, Wt 222.4, BMI 30.16.

Examination:

General Examination:

Patient in no distress chest clear cardiovascular regular rate and rhythm abdomen positive bowel sounds
soft nontender his neck exam shows slightly enlarged anterior cervical chain lymph node at the angle of the
jaw soft non-malleable no other lymph nodes noted nares congested T and congested right arm with
tenderness over the right lateral epicondyles full range of motion of the elbow.

Assessment:

Assessment:

1. Body mass Index (BMI) of 30.0-30.9 in adult - Z68.30 (Primary)
2. Right elbow tendonitis - M77.8
3. Lymphadenopathy, anterior cervical - R59.0

Plan:

1. Right elbow tendonitis

Notes: brace, ice, rest, aleva bid prn.

2. Lymphadenopathy, anterior cervical

Continue Bactrim DS tablet, 800 mg-160 mg, 1 tab(s), orally, 2 times a day, 10 day(s), 20, Refills 1 .

Notes: rto if does not improve.

3. Others

Action Started- labs

Therapeutic Injections:

VITAMIN B12 : 1 mL (Route: Intramuscular) given by Sandra Deese LPN on left deltoid

Procedure Codes: J3420 VITAMIN B 12

Preventive:

Counseling: BMI Care goal follow up plan BMI management provided Yes, Above Normal BMI Follow-up
Weight monitoring , Nutrition/Dietary Counseling provided Yes.

Follow Up: 3 Months, 4 Months

Care Plan:

Problems:

Provider: Timothy Andrew Fitzgibbon, MD

Patient: Arnette Jr, Jerry DOB [REDACTED] **Date:** 01/18/2018

Timothy A. Fitzgibbon


The Standard[®]
Postally Different.

September 19, 2018

Administrative Consultants
for State of South Carolina

No. 2376 P. 2
from
JERRY M ARNETTE JR
555 PEARLIE RD
DILLON, SC 29536

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Mr. Arnette:

We are writing with regard to your claim with Standard Insurance Company (The Standard).

By completing and returning the enclosed Activities and Capabilities Questionnaire you will provide The Standard important information needed to further the administration of your disability claim and determine your entitlement to on-going disability benefits.

Please complete this form and return it to our office in the enclosed postage-paid envelope within 21 days.

If you have any questions about this letter, please write or call me.

Sincerely,

Kailee Recor

To: Kailee Recor
Disability Claim Asst. I
800-628-9696 ext. 4816

Enclosures: Activities and Capabilities Questionnaire
Postage-Paid Envelope

R 432

10.10.2018 2:41PM

[REDACTED]

11/07/2018 - Office Visit: N/P
Provider: Richard D Guyer MD
Location of Care: Texas Back Institute - Plano
Status: IN PROGRESS DOCUMENT. Contents are preliminary

Chief Complaint:

Chronic low back pain and right leg pain greater than left leg pain for over 2 years

History of Present Illness:

Jerry is a 49-year-old patient from South Carolina who states that he has been having ^{pain}prone to his lower back that radiates into both his legs and to the bottom of his feet for over 2 years. He has more symptoms on the right side than the left although he is experiencing symptoms on the left side as well he does get less muscle spasms on the left side. In 2016 Dr. Highsmith carried out a discectomy. He only had short-term relief. The pain has been settling getting worse. He has been through physical therapy after that. Subsequent 2017 he underwent artificial disc in his neck but continued to have problems with his low back. In fact his last able to work February 2017. At that time he was working as a commercial truck driver examiner. He is taking physical therapy is also been on gabapentin pain medication and muscle relaxants. He has markedly limited his activities his function activities are markedly diminished. He is also had 3 rhizotomies he has had dry needling as well as chiropractic. He is also tried back traction and use an inversion table. He comes in now for further evaluation. He also has had 5 previous injections.

What do you want to happen as a result of this visit?

less pain

How and when did your problem begin?

I've had it a long time.

Do you have any of the following problems?

Is your pain worse at night? no yes *Especially both legs*.

Does your pain awaken you from sleep? yes

Does coughing affect your pain? yes

Do your legs tire/hurt if you walk too far? yes

IF YES, how far can you walk? 1 - 3 blocks

Is this relieved by resting your legs? no

Is this relieved by bending forward? no

Bladder Control (urine):

No problem

Bowel Control:

No problem

How does each of the following affect your pain?

Sitting: Worse

Walking: Worse

Lying down: Better

Rising from chair: Worse

Physical activity: Worse

Heat: Better

Cold: Better

Massage: No change

R 433

Current Back/Neck Pain

Have you ever had the following for your CURRENT back/neck pain:

0283

No. 2316 P. 3

c. 10.2018 2:41PM

Physical Therapy

Physical Therapy Worse

Injections Worse

Psychological consultation No change

No change

Have you ever had surgery on your back or neck?

Yes

1) Type of surgery: artificial disc neck

Date: 2017

Surgeon Jason Highsmith

Did it make your pain better

2) Type of surgery: disc herniation

Date: 2016

Surgeon Highsmith

For your current back/neck pain, please mark the boxes for the timeframe that any of the following tests were done:

MRI scan less than 6 months

CT scan less than 6 months

GENERAL MEDICAL HISTORY

Medications:

* PROAIR

* PANTOPRAZOLE

* ALLOPORINOL

MOBIC TABS (MELOXICAM TABS) HISTORICAL MEDICATIONS

CYCLOBENZAPRINE HCL TABS (CYCLOBENZAPRINE HCL TABS) HISTORICAL MEDICATIONS

AMLODIPINE BESYLATE TABS (AMLODIPINE BESYLATE TABS) HISTORICAL MEDICATIONS

LOSARTAN POTASSIUM TABS (LOSARTAN POTASSIUM TABS) HISTORICAL MEDICATIONS

NEURONTIN TABS (GABAPENTIN TABS) HISTORICAL MEDICATIONS

TRAMADOL HCL TABS (TRAMADOL HCL TABS) HISTORICAL MEDICATIONS

Allergies:

* ETODOLAC (Mild)

FAMILY MEDICAL HISTORY

Mother: Alive

Age: 72

Father: Alive

Age: 74

Number of living brothers/sisters: 1

Members of my family (parents, brothers/sisters, grandparents, aunts/uncles) suffer with the following:
stroke, hip, arthritis

R 434

SOCIAL HISTORY

0284

No. 2316 P. 4

c. 10. 2018 2:41PM

Diagnosis: [REDACTED]

Smoking Status:
never smoker

Alcohol:

Beer: no

Wine: no

"Hard" drinks: no

Frequency of drinking: never

Do you have a history of heavy drinking? no

Effect of your back/neck pain on your lifestyle:

I describe my home setting as supportive of me during this time. yes

I describe my work setting as supportive of me during this time. no

My pain has affected my interaction with my family and friends. yes

The changes in my lifestyle due to my problem have been difficult for me. yes

What is your ability to enjoy life? Poor

Please indicate your current work status:

Physically unable to work due to back/neck problem

Before having back or neck pain, did you normally work:

full time

What is your usual occupation?

CDL
cdl license examiner

Do you like your work situation?

N/A

Has your pain affected your ability to do your job or any other daily activities?

yes

If YES, please explain:

cant work

Is there anything we have failed to ask that you believe is important for us to know?

no

REVIEW OF SYSTEMS

General: weight loss of more than 10 pounds

Cardiac: shortness of breath

Genitourinary: abnormal kidney function

Bones/Joints: shoulder pain, wrist/hand pain, hip pain, muscle weakness

Nervous System: headache

Mental Health: sleep disturbances

Physical Exam

R 435

Vital Signs:

Vital Signs Entered By: Sharon D Mas MA (November 7, 2018 2:06 PM)

0285

No. 2316 P. 5

:c. 10. 2018 2:41PM

Jerry Guerrero, MD

Weight: 212 pounds
BMI: 28.86
Pulse rate: 63 /minute
BP sitting: 127 / 90

On examination he is a pleasant well-developed 49-year-old patient who is in no acute distress. He has a well-healed midline incision about the L4-5 level flexion-extension are limited with pain. He can walk on his heels and toes normally. EHL and TA are 5/5 sensory examination is diminished of the right anterior right lower leg and plantar aspect of the right foot EHL and TA are 5/5 in walk in his heels and toes normally

Radiology / Imaging review:

X-Ray review:

X-ray performed in office today

Plain x-ray shows 5 mobile lumbar segments on lateral flexion extension there is no gross instability appreciated there is marked narrowing at the L5-S1 level with retrolisthesis and anterior spurring.

MRI review:

MRI reviewed in office today

Review of his MRI scan shows that he has desiccation and narrowing at the L3-4 level but no sinus can facet abnormalities. At the L4-5 level he has what looks like a previous laminectomy at the right side of 4 5. At L5-S1 there is retrolisthesis as well as some mild facet joint asymmetry on the left on films dated 9/28/18.

Assessment for Today's Visit:

Chronic function limiting low back pain with right leg pain greater than left pain equal with failure of extensive conservative treatment including previous lumbar laminectomy at L4-5, physical therapy, multiple injections, facet rhizotomy, medications, gabapentin, chiropractic, with desiccation L3-4 L4-5 and L5-S1 with some minor facet abnormality at the L5-S1 level on the left

Status post neck surgery

Plan for today's visit:

I explained to Jerry that at this point I would recommend that we have him undergo lumbar discography in bone density. He would like to do this back in North Carolina. He will research the best place to have the discography done if not he will come back to TBI and have Dr. Balter do it. I do think that he may be a candidate for a 3 level hybrid the pain with the CT discogram does to evaluate the facet joints. Clearly the L3-4 level if it is symptomatic he would be a candidate. His insurance runs out at the end of February and he would like me to submit this so I will do this understanding that we do not have all the information but at least we can see what his insurance will pay for and not pay for.

New Medications for today's visit:

Proair Q

Pantoprazole ()

Allopurinol Q

Mobic tabs (Meloxicam tabs) HISTORICAL MEDICATIONS

Cyclobenzaprine hcl tabs (Cyclobenzaprine hcl tabs) HISTORICAL MEDICATIONS

Amlodipine besylate tabs (Amlodipine besylate tabs) HISTORICAL MEDICATIONS

Losartan potassium tabs (Losartan potassium tabs) HISTORICAL MEDICATIONS

Neurontin tabs (Gabapentin tabs) HISTORICAL MEDICATIONS

Tramadol hcl tabs (Tramadol hcl tabs) HISTORICAL MEDICATIONS

Problems added in today's visit:

Lumbago with sciatica, unspecified side (ICD-724.3) (ICD10-M54.40)

0286

Denise H. [REDACTED]

Orders for today's visit:

Added new Service order of Ofc Vst - New - Complex (CPT-99205) - Signed
Added new Test order of Bone Density Study/DEXA (CPT-SPBDDXA) - Signed
Added new Test order of Discogram; Lumbar Spine (CPT-DISCLUM) - Signed

Patient Instructions:

Referred to PCP for BP management.

Medications:

Medications were reviewed with the patient during this visit.

This document was prepared with the use of Dragon Speech Recognition technology and proofread. Minor recognition errors could still escape appropriate correction. If a word or a phrase is confusing and out of context, please don't hesitate to call us for clarification at 972-808-5000.

Texas Back Institute - Plano
6020 W Parker Road Suite 200, Plano, TX 75093-8172
(972) 608-5000 Fax: (972) 608-5020

11/07/2018 03:42 PM

Page 1 of 1
Test Form

Scripts for Orders

Authorizing Provider: Richard D Guyer MD
Signing Provider: Richard D Guyer MD
Phone: (972) 608-5000
Fax: (972) 608-5020

Service Provider:

Phone:
Fax:

Patient Name: Jerry Annette JR
Home Phone: [REDACTED]
Work Phone:
Resp. Provider: Richard D Guyer MD

Patient ID: 264933

Cell Phone:

DOB: [REDACTED]

Age: 49 Years

Sex: M

SSN: [REDACTED]

Primary Ins: BCBS
Group:
Policy:
Insured ID: ZCS53859853

Code	Description
CPT-DISCLUM	Discogram: Lumbar Spine

Diagnoses
LUMBAGO WITH SCIATICA; UNSPECIFIED SIDE
(ICD-724.3) (ICD10-M54.40)
OTHER INTERVERTEBRAL DISC DEGENERATION;
LUMBAR REGION (ICD-722.52) (ICD10-M51.36)

Order Number: 400247-3
Auth:
Quantity: 1
Start Date: 11/7/2018
Priority: Normal
Electronically signed by: Richard D Guyer MD
Signed on: 11/7/2018 3:41:29PM
Instructions: w/CT w/V Protocol
Levels: L3/4,4/5,5/S1

R 438

0288

State Managed Care
AX-650
1-20 at Alpine Road
Columbia, SC 29219



South Carolina

Blue Cross and Blue Shield of South Carolina
Member of the United Brotherhood of Carpenters and Joiners of America
Member of the United Brotherhood of Carpenters and Joiners of America

Visit My Health Toolkit at SouthCarolinaBlues.com

November 19, 2018

Jerry Arnette
555 Pearlle Road
Dillon, SC 29535

INSURANCE
DENIAL

RE: Patient Name: Jerry Arnette
ID Number: ZCS33859853
Date of Service: 01/03/2019
Type of Service: Lumbar Artificial Disc Replacement
Physician: Texas Back Institute
Facility: Physicians Medical Center Lp

Dear Jerry Arnette:

I regret that we are unable to authorize the service request for Lumbar Artificial Disc Replacement. Unfortunately, this service is not covered by the member's current State Health Plan of benefits. Per the BlueCross BlueShield Medical Policy CAM 181, The following procedures are considered INVESTIGATIONAL: Percutaneous lumbar discectomy; Laser discectomy; Percutaneous Radiofrequency Disc Decompression; Intradiscal electrothermal annuloplasty (IDEA) or more commonly called IDET (Intradiscal Electrothermal therapy); Nucleus Pulpous Replacement; Pre-Sacral Fusion, or Lumbar Artificial Disc Replacement.

Per State Health Plan of Benefits Document Article 9, Paragraph G:

No benefits will be provided under any Article of this Plan for any service, supply, or charge for the following:

G. Any surgical or medical procedures determined by the medical staff of the Third Party Claims Processor, with appropriate consultation, to be experimental, investigational, or not accepted medical practice. Experimental or investigational procedures are those medical or surgical procedures, supplies, devices, or drugs that, at the time provided or sought to be provided:

1. Are not recognized as conforming to accepted medical practice in the relevant medical specialty or field of medicine; or
2. Have not received final approval to market from appropriate government bodies; or
3. Are those about which the peer-reviewed medical literature does not permit conclusions concerning their effect on health outcomes; or
4. Are not demonstrated to be as beneficial as established alternatives; or
5. Have not been demonstrated, to a statistically significant level, to improve the net health outcomes; or
6. Are those in which the improvement claimed is not demonstrated to be obtainable outside the investigational or experimental setting.

Any decision to continue with the non-covered service remains with the physician and the member. Unfortunately, the patient will be financially responsible for all non-covered service charges.

I am sorry that our decision could not be a favorable one. You and/or the physician have additional information



South Carolina

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that supports the medical necessity and appropriateness of the proposed care plan, you may appeal this decision by submitting a written request (via FAX or mail) for reconsideration. The following must be submitted within six (6) months of the date of this denied notice to:

State Managed Care, AX-650
Interstate 20 at Alpine Road
Columbia, South Carolina 29210-0001

- * Name and identification number of the member;
- * A copy of the claim or request being appealed;
- * Pertinent information and comments regarding the determination; and,
- * A copy of the medical records that supports the medical necessity and appropriateness of the proposed care.

If you have any questions or seek further clarification of this determination, please contact me or another Blue Cross and Blue Shield of South Carolina Medical Services Representative at:

803-899-3337 (Columbia) 800-925-9724 (In and outside South Carolina)
803-264-0183 (FAX)

Sincerely,

Amy Davis, RN
Medical Services Management

A copy of this letter is being sent to the following individuals for their INFORMATION ONLY.
Physicians Medical Center Llp
Texas Back Institute

R 440

Page 2 of 4

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c. 10. 2018 2:42PM
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FROM:

JERRY M. ANNETT, JR.

555 PEARLIE ROAD

Dillon, S.C. 29536

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R 441

TO: EMPLOYEE BENEFITS DEPT.

STANDARD INSURANCE COMPANY

PO BOX 2800

PORTLAND OR 97208

ATTN: KAILEE RECA

Label 228, March 2016

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UNITED STATES



September 19, 2018

Administrative Consultants
for State of South Carolina

JERRY M ARNETTE JR
555 PEARLIE RD
DILLON, SC 29536



Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Mr. Arnette:

We are writing in regard to your Long Term Disability (LTD) claim with Standard Insurance Company (The Standard), Claims Administrator for the State of South Carolina LTD Plan.

We feel it is important that you understand the LTD Plan's Definition of Disability and how the change in this definition will affect your LTD claim for benefits. To be eligible for benefits, you must be Disabled as defined by the LTD Plan.

During the first 24 months of Disability following the 90-day waiting period on your Basic and Supplemental claims, you are eligible for benefits if you are Disabled from performing the Material Duties of your Own Occupation of Drivers License Examiner. This is referred to as the Own Occupation Definition of Disability.

To be eligible for benefits after 24 months, you must be Disabled from all occupations for which you are qualified by reason of education, training and experience. In other words, you must be unable to perform any gainful occupation as a result of your Disability. This is referred to as the Any Occupation Definition of Disability.

The LTD Plan defines Disability as follows:

Definition Of Disability

You are Disabled if you meet one of the following definitions during the period it applies:

- A. Own Occupation Definition of Disability;
- B. Any Occupation Definition of Disability; or
- C. Partial Disability Definition.

R 442

2. During the Any Occupation Period, you are Partially Disabled when you work in an occupation but, as a result of Physical Disease, Mental Disorder, Injury or Pregnancy, you are unable to earn more than the Any Occupation Income Level in that occupation and in all other occupations for which you are reasonably fitted under the Any Occupation Definition of Disability.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation.

You may work in another occupation while you meet the Own Occupation Definition of Disability. If you are Disabled from your Own Occupation, there is no limit on your Work Earnings in another occupation. Your Work Earnings may be Deductible Income. See Return To Work Incentive and Deductible Income.

Your Any Occupation Period, Any Occupation Income Level, Own Occupation Period, and Own Occupation Income Level are shown in the Coverage Features.

Under your Basic and Supplemental LTD claims, you became Disabled on February 14, 2017 and became entitled to benefits on May 15, 2017. Therefore, your first 24 months of Disability following the 90-day waiting period will end on May 14, 2019.

We are reviewing your claim for benefits because of the change in the Definition of Disability. To determine if you remain eligible for continued benefits, we will evaluate your ability to perform another occupation beginning May 15, 2019. Our review will analyze the medical and vocational information available to us, and will consider, among other things:

- your medical condition and how it may limit your ability to work on a regular basis;

- the skills and knowledge you gained from your education and past work experience;

- your prior occupations; and *I CAN NOT WORK AT ALL. My Medications prevent me from being able to function. I'm in constant pain and can not sit, stand or lie down comfortably for any period of time.*

jobs you can perform based on your vocational and physical abilities. *I have Brain Fog.*

If you have any medical or vocational information which you would like us to consider in making our decision, please let us know. *MY LOW BACK PAIN RADICALATES INTO BOTH LEGS & BOTH FEET*

In summary, in order to receive benefits after May 14, 2019, you must be Disabled from all occupations for which you have the education, training and experience. If you meet this Definition of Disability and all other provisions of the LTD Plan, you may receive benefits through the Maximum Benefit Period, to age 65, August 26, 2034.

R 443

From: JERRY M ARNETTE JR

1-910-619-1553 4

September 19, 2018

If you have any questions about this letter or your claim, please write or call me.

Sincerely,

Kailee Recor

To: Kailee Recor
Disability Claim Asst I
800-628-9696 ext.

THANKS,
JERRY ARNETTE

R 444

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Charleston Neurology Associates

9313 Medical Plaza Dr., Suite 310

Charleston, SC 29406

Office: 843-569-1856

NCS/EMG Report

Full Name: Arnette, Jerry
MRN #: 1004670

Gender: Male
Date of Birth: [REDACTED]

Visit Date: 3/12/2018 09:57
Age: 48 Years 6 Months Old
Referring Physician: Highsmith
Examining Physician: John H. Lucas IV, MD
Height: 6 feet 1 inch
Weight: 215 lbs
History/Comments: BLE, right > left NTP/W yrs., chronic LBP which radiates down the RLE, some off balance, no falls.
s/p lumbar surgery X 1.
TAT

SNC

Nerve / Sites	Rec. Site	Peak Lat ms	Ref. ms	Amp μ V	Ref. μ V	Segments	Distance mm
L Sural - Ankle (Calf)							
Calf	Ankle	3.5	≤ 4.8	10.5	≥ 5.0	Calf - Ankle	140
						2 - Ankle	
R Superficial peroneal - Ankle							
Lat leg	Ankle	2.6	≤ 4.8	11.8	≥ 5.0	Lat leg - Ankle	100
R Sural - Ankle (Calf)							
Calf	Ankle	3.3	≤ 4.8	6.9	≥ 5.0	Calf - Ankle	140
						2 - Ankle	
L Superficial peroneal - Ankle							
Lat leg	Ankle	3.2	≤ 4.8	7.0	≥ 5.0	Lat leg - Ankle	100

MNC

Nerve / Sites	Muscle	Latency ms	Ref. ms	Amplitude mV	Ref. mV	Segments	Distance mm	Lat Diff ms	Velocity m/s	Ref. m/s
L Peroneal - EDB										
Ankle	EDB	5.1	≤ 8.6	7.4	≥ 2.0	Ankle - EDB	80			
Fib head	EDB	12.0		6.9		Fib head - Ankle	325	7.0	47	≥ 42
Pop fossa	EDB	14.3		6.1		Pop fossa - Ankle	425	9.2	46	≥ 42
						Pop fossa - Ankle		9.2		
L Tibial - AH										
Ankle	AH	4.5	≤ 6.6	10.8	≥ 2.0	Ankle - AH	80			
Pop fossa	AH	14.0		9.7		Pop fossa - Ankle	425	9.4	45	≥ 42
R Peroneal - EDB										
Ankle	EDB	4.8	≤ 8.6	4.8	≥ 2.0	Ankle - EDB	80			
Fib head	EDB	11.9		4.4		Fib head - Ankle	335	7.3	46	≥ 42
Pop fossa	EDB	14.0		4.5		Pop fossa - Ankle	435	9.4	46	≥ 42
						Pop fossa - Ankle		9.4		
R Tibial - AH										

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Nerve / Sites	Muscle	Latency ms	Ref. ms	Amplitude mV	Ref. mV	Segments	Distance mm	Lat Diff ms	Velocity m/s	Ref. m/s
Ankle	AH	4.7	≤6.6	9.0	≥2.0	Ankle - AH	80			
Pop fossa	AH	13.9		7.8		Pop fossa - Ankle	430	9.2	47	≥42

F Wave

Nerve	F Lat ms	Ref. ms
L Peroneal - EDB	55.5	≤58.0
L Tibial - AH	56.6	≤58.0
R Peroneal - EDB	55.3	≤58.0
R Tibial - AH	55.7	≤58.0

EMG

EMG Summary Table			Spontaneous					MUAP			Recruitment
Muscle	Nerve	Roots	IA	Fib	PSW	Fasc	Other	Amp	Dur.	PPP	Pattern
R. Tibialis anterior	Deep peroneal (Fibular)	L4-L5	N	None	None	None	—	1+	1+	2+	Reduced
R. Peroneus longus	Peroneal	L5-S1	N	None	None	None	—	1+	1+	2+	Reduced
R. Gastrocnemius (Medial head)	Tibial	S1-S2	N	None	None	None	—	1+	2+	2+	Reduced
R. Gastrocnemius (Lateral head)	Tibial	S1-S2	N	None	None	None	—	1+	2+	2+	Reduced
R. Tibialis posterior	Tibial	L4-L5	N	None	None	None	—	1+	2+	2+	Reduced
R. Vastus lateralis	Femoral	L2-L4	N	None	None	None	—	N	N	N	N
R. Rectus femoris	Femoral	L2-L4	N	None	None	None	—	N	N	N	N

Summary

The motor conduction test was normal in all 4 of the tested nerves: L Peroneal - EDB, L Tibial - AH, R Peroneal - EDB, R Tibial - AH.

The sensory conduction test was normal in all 4 of the tested nerves: L Superficial peroneal - Ankle, L Sural - Ankle (Calf), R Superficial peroneal - Ankle, R Sural - Ankle (Calf).

The F wave study was normal in all 4 of the tested nerves: L Peroneal - EDB, L Tibial - AH, R Peroneal - EDB, R Tibial - AH.

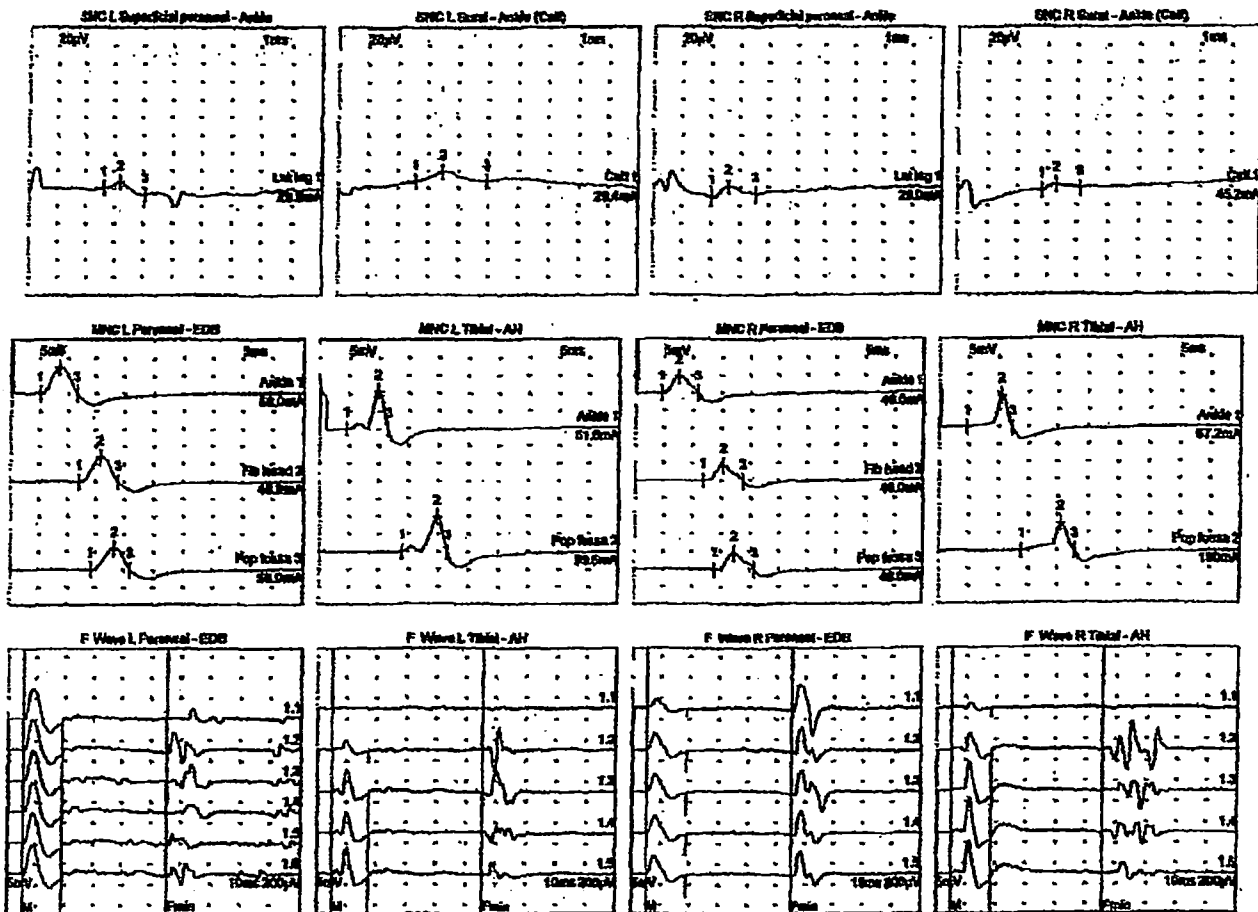
The needle EMG examination was performed in 7 muscles. It was normal in 2 muscle(s): R. Vastus lateralis, R. Rectus femoris. The study was abnormal in 5 muscle(s), with the following distribution:

- The MUP waveform abnormality was found in R. Tibialis anterior, R. Peroneus longus, R. Gastrocnemius (Medial head), R. Gastrocnemius (Lateral head), R. Tibialis posterior.
- Abnormal interference pattern was found in R. Tibialis anterior, R. Peroneus longus, R. Gastrocnemius (Medial head), R. Gastrocnemius (Lateral head), R. Tibialis posterior.

Interpretation:

1. Normal NCV of both legs, no suggestion of peripheral neuropathy
2. Needle EMG of the right leg reveals chronic L5 and S1 Radicular changes.

 John H. Lucas IV, MD



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The Standard

Standard Insurance Company
Employee Benefits Department 800.368.1135 Tel 971.321.8400 Fax
PO Box 2800 Portland OR 97208

Activities and Capabilities Questionnaire - Claimant

This form provides a way for you to support your claim for disability benefits. It is important to answer each question thoroughly and accurately. If you need additional space, write your response on a separate sheet of paper and attach to this form.

Name JERRY M. Arnette, Jr	Claim No. 00FC6930, 00FF3058

I. Medical Background

Please describe your disabling medical condition(s) and any improvement you believe you have made since you stopped working:
NO IMPROVEMENT. CONDITION HAS WORSENEO. I have trouble concentrating. I HAVE CHRONIC BACK pain that radiates down both legs into both feet. The medications I take prevent me from working as well as the pain and muscle spasms.

List all the medical problems that you see a healthcare professional for and the treatment plan for each condition:
Chronic Low Back pain that radiates into both legs & both feet use medications. 2 Artificial discs in neck in 2014 after surgery. Chronic Kidney Disease Stage 3. Asthma with breathing problems use nebulizer medications. Drink more water, watch diet, be careful of medications and avoid the counter medicines. Hallux Rigidus at Big toes on both feet try medications, don't take medicine. High blood pressure.

Provide the names, addresses and telephone numbers of all healthcare professionals who have treated you within the past 12 months:
Neurologist - Dr. Jason Highsmith - (SEE ATTACHED SHEETS 2) Listing 14 Doctors
FOR ALSO Included NEW MRI 2 pages DATE 09/28/18 & NERVE LEG TEST DATE 3/12/18

How frequently do you seek treatment with a healthcare professional? **Very Frequently**

List all medications you are currently taking. For each medication include dosage and frequency taken:
GABA PENTIN 300mg 1x DAY / SYMBICORT 2x DAY / Lasix 50mg 1 2x DAY / Celecoxib 15mg 1x DAY / Meloxicam 15mg 1x DAY / PROAIR Inhaler 4x / Cyclobenzaprine 10mg 1 per 8 hrs AS needed. / Hydrocodone Acet. 7.5-3.25 AS needed. / Pantoprazole 40mg 1x DAY / 2nd PRN needed / Tramadol 50mg 1 3x DAY AS needed / Amlodipine 5mg 1x DAY / IP Sprinkle 1/2 tsp 1x DAY / USE CPAP Machine 4x DAY / Allopurinol 100mg 1 2x DAY / Bactrim 800mg 1x DAY / Mometasone 50 10mg 1x DAY / USE CPAP Machine 4x DAY

Where do you fill your prescription medications? **CVS 1211 US-301 Hwy Dillon, S.C. 29536**

What is your height? **6 feet** Your weight? **215** lbs./kgs.

Standard Insurance Company

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PO Box 2800 Portland OR 97208

Activities and Capabilities Questionnaire - Claimant

2. Personal Care

What time do you usually get up? *10pm* What time do you usually go to bed? *10pm* I sleep very little at night because I can't get comfortable and past keeps me tossing & turning in my BACK & LESS.

Do you need any assistance in dressing and/or grooming? ☐ Yes ☒ No
If yes, describe the help you require and how frequently: *But I wear clothes that are easier to get on & off.*

Do you prepare your own meals? ☒ Yes ☐ No
If yes, which meals do you prepare? ☒ Breakfast ☐ Lunch ☐ Dinner *Cereal, Juice, NO preparation necessary.*
If you do not prepare your own meals, who helps you? *I eat Lunch and Dinner Across the street at my Father's House where he and my step mother fix meals or I eat take out or microwave something.*

Have your eating habits changed since your condition began? ☒ Yes ☐ No
Provide examples of the type(s) of meal(s) you prepare/eat and any changes in your eating habits: *I prepare Instant Foods Cereals, Juice, Coffee, or microwaveable quick foods. I use paper plates, cups, etc. I EAT MOST MEALS AT MY Father's & Step mother's House, most of the time. Across the street.*

3. Household Care

Are you responsible for the financial management of your household? ☒ Yes ☐ No
If yes, explain what you do (for example, write checks, pay mortgage, maintain bank records, make bank deposits, etc.):
I make bank deposits first of month, have some ideas on how to write a few checks. CAN AND PAY BILLS WITH A CREDIT CARD. As of today 9/30/2018 I haven't finished my 2017 tax return. I easily get distracted and forget to pay bills or figure my in checks back correctly. It has taken me 2 weeks to complete these forms.

If you are not responsible for the financial management of your household, who is?

Do you engage in household work? ☒ Yes ☐ No If yes, check the kinds of household activities you do:

☐ Taking out the trash/recycling	☒ Laundry	☐ Dusting	☐ Vacuuming
☒ Loading the dishwasher	☐ Washing dishes	☐ Make beds	☐ Sweeping
☐ Car care/wash/maintenance	☐ Household repair	☐ Mow and maintain lawn	☐ General cleaning

How often do you do household activities: ☐ Daily ☐ Twice a week ☒ Weekly ☐ Monthly
Approximate time spent on household activities: Daily _____ Weekly *20 minutes* Monthly _____
For Laundry & Dishwasher or 10 minutes EACH.

Describe any changes in your ability to care for your household and any assistance required since your disability began:
I Depend on my father and step mother for yard work, maintenance, cleaning, etc. Father can repairs they can't do, NECESSARY.

Do you shop at stores? ☒ Yes ☐ No
What kinds of shopping do you do: ☒ Food ☐ Clothes ☐ Gifts ☐ Other (specify): _____
How often do you shop at stores: ☐ Daily ☐ Twice a week ☐ Weekly ☒ Monthly
Approximate time spent on shopping: Daily _____ Weekly _____ Monthly *20-35 minutes each*
1-2 trips but at a couple different times a month. TOTAL ABOUT 45 MINUTES FOR ALL.

Do you require any assistance when you shop? ☒ Yes ☐ No
If yes, describe the assistance you require: *putting items in a shopping cart or in a vehicle.*

NONE
If you have child care responsibilities, answer the following questions:

What child care do you provide?

- ☐ Supervision ☐ Bathe ☐ Change clothes ☐ Change diaper ☐ Feed
☐ Carry ☐ Play activities ☐ Lift ☐ Read ☐ Other (specify): _____

Approximate time spent on child care activities: Daily _____ Weekly _____ Monthly _____

Do you require assistance to perform any of these child care activities? ☐ Yes ☐ No

If yes, describe the assistance you need, who provides this assistance, and how frequently you require this assistance:

R 454

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Activities and Capabilities Questionnaire - Claimant

4. Interests and Hobbies

Do you read? ☒ Yes ☐ No
If you read, what do you read: ☐ Books ☒ Magazines ☒ Newspapers ☐ Other (specify): _____
Approximate time spent reading: Daily 10 minutes Weekly _____ Monthly _____
Do you watch TV? ☒ Yes ☐ No
If yes, how many hours do you watch daily? 1 hour usually fall asleep in my recliner
Do you listen to the radio? ☒ Yes ☐ No
If yes, how many hours do you listen daily? 0
What type of hobbies or activities do you participate in: NONE
☐ Fishing ☐ Hunting ☐ Crafts ☐ Sewing
☐ Swimming ☐ Bowling ☐ Computer ☐ Continuing Education
☐ Courses ☐ Movies ☐ Sports ☐ Other (specify): _____
Describe the recreational licenses (fishing, hunting, etc.) you have held since your disability began: NONE
If you use a computer, please provide your e-mail address: _____
Please indicate the purposes for which you use a computer: _____

5. Education

Did you graduate from college? ☒ Yes ☐ No If no, indicate the highest college level completed: _____
Do you possess a professional license? ☐ Yes ☒ No
If yes, indicate the type of license and when issued: _____
Describe the current status (active, inactive, suspended, etc.) of each professional license that you hold: Don't HAVE ANY professional Licenses
Describe all the education, training and work experiences you have gained since being disabled: NONE

6. Travel and Mobility

Do you hold a driver's license? ☒ Yes ☐ No
Do you drive? ☒ Yes ☐ No But only after stopping pain and nerve pain medications A DAY ahead of driving.
If yes, what type of vehicles do you drive? CAR or truck
Do you take public transportation? ☐ Yes ☒ No NONE EASILY AVAILABLE. NO BUS STOPS ETC.
Do you need assistance to travel? ☒ Yes ☐ No
If yes, describe why you need it, who assists you, and any changes in your travel habits since the onset of your disability:
I have to get someone to drive me to appointments unless I stop taking medications at least a DAY ahead of time then I hurt more for 2-3 days after riding or driving any distance.
In the past 24 months or since you have been disabled (whichever is less), please describe where you have traveled, how you have traveled (car, plane, etc.) and how long you stayed: Traveled by car to Doctors Appointments longest trips to Charleston S.C To see pain specialist Neurologist, etc. Then I suffer for 2-3 days after having the ride in the vehicle. DAY trips.
List the recreational vehicles (motorcycles, boats, jet skis, ATVs, snowmobiles, RVs, etc.) you used in the last 24 months or since you have been disabled (whichever is less) and the circumstances for their use: NONE

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Activities and Capabilities Questionnaire - Claimant

7. Social Activities

Are you an active member of any club(s), community activity(ies), church or other group(s)? ☐ Yes ☒ No
If yes, describe the club(s), community activity(ies), church or other group(s) to which you belong:

How often do you participate in these activities: ☐ Daily ☐ Twice a week ☐ Weekly ☐ Weekends ☐ Monthly

Do you hold any positions in your club, church or group? ☐ Yes ☐ No
If you hold any positions, describe them:

Do you do volunteer work? ☐ Yes ☒ No

If yes, describe your volunteer activities, including the location, duties performed, hours and frequency of participation:

Do you visit with friends or relatives? ☒ Yes ☐ No

How often do you visit: ☒ Daily ☐ Twice a week ☐ Weekly ☐ Weekends ☐ Monthly

Estimate how long these visits last (i.e. number of hours): 30-45 minutes For Lunch & Dinner At My Father's House Across the street

Has there been any change in your social contacts since your disability began? ☒ Yes ☐ No

If there has been any change in your social contacts or you require assistance to maintain these social contacts, describe the change(s) and assistance you require: My Low BACK pain radiates into both of my legs and both feet and hurts constantly. I CAN NEVER get comfortable standing, sitting, or lying down. I have to stop pain and nerve pain pills a DAY AHEAD IF I drive ANYWHERE. I mostly stay home or go to my Father's House across the street

8. Work and Rehabilitation

Have you participated in a rehabilitation or retraining program? ☐ Yes ☒ No
If yes, provide the name, address and telephone number of the program:

Have you worked in any capacity, whether formal or informal, whether paid or unpaid, since being disabled? ☐ Yes ☒ No
If yes, please summarize this work in the space below (include dates, general duties/responsibilities, and employer):

Do you believe that you will be able to return to work? ☐ Yes ☒ No

If yes, do you believe you will be able to return to work in your own occupation? ☐ Yes ☐ No

If yes, do you believe you will be able to return to work in another occupation? ☐ Yes ☐ No

If you do not believe that you will be able to return to work, describe the reason(s) supporting your belief: My Low BACK pain radiates down into both legs & both feet and is very painful. I AM NEVER able to get comfortable standing, sitting, or lying down. I get very little sleep at night. The medications for pain & nerve pain prevent me from driving unless I stop taking the medicine A DAY AHEAD of a doctor's visit, etc. The medicines keep me in a fog and it's hard to concentrate or stay focused & get tasks accomplished.

Are you currently employed or self-employed? ☐ Yes ☒ No

- ☐ Working full time ☐ Working part time
☐ Currently seeking employment ☐ Self-employed
☐ Other

If you are working in any capacity please include the name, address, and telephone number of your employer(s).

Employer: _____ Salary: _____

Job Title: _____

R-456 weekly hours: _____ Date of hire: _____

0302

Standard Insurance Company

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PO Box 2800 Portland OR 97208

Activities and Capabilities Questionnaire – Claimant

8. Work and Rehabilitation (continued)

List all your current sources of income and the amount received from each source:

1. 1st check Standard Insurance Long term Disability 800-105.1744-8 = 694.83
2. 2nd check Disability from Standard Insurance = 859.48

Are you owner or part-owner of any business? ☐ Yes ☒ No
If yes, do you actively engage in the operation of the business? ☐ Yes ☐ No
What is the name and location of the business/self-employment?

How many hours each week do you work for the business/self-employment? _____

What duties do you perform? _____

Is a business being operated within your home by you or anyone else? ☐ Yes ☐ No
If yes, please describe the business and your role in its operation:

9. Other Income

What is the status of your Social Security disability claim?

☐ None ☒ Pending ☐ Approved* ☐ Denied*

*If not previously provided, attach a copy of the award/denial notice.

If pending, at what level of the Social Security process is your claim currently pending?

☐ Initial application ☐ Reconsideration ☒ Hearing ☐ Appeals Council

If denied, at what level of the Social Security process was your claim denied?

☐ Initial application ☐ Reconsideration ☐ Hearing ☐ Appeals Council

Do you have an attorney representing you in your claim for Social Security disability benefits? ☒ Yes ☐ No

If yes, provide your attorney's name, address and telephone number:

AttSup, Inc. 300 AttSup place, Belleville, IL 62223 (MARIE Contrucci - Lawyer)

Please list all other disability and retirement benefits for which you have applied:

(SOCIAL SECURITY Disability - FEDERAL) (State of S.C. Do not qualify for benefits)

10. Acknowledgement

I hereby certify that the information I have provided on this form is both true and complete to the best of my knowledge and belief. I understand that Standard Insurance Company will use the information on this form to administer my claim for insurance benefits.

Signature

Date

Phone No

You are responsible for making sure this form is completed and returned to our office at the address above.
If you have any questions, please contact your benefit administrator or call our customer service line at 800.368.1135.

R 457

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SIC BENEFITS DEPT

OCT 12 2018

0303

Standard Insurance Company

Benefits Department

Disability Update

Claimant Name	Claim No.
JERRY M. ANNETT, JR	00FC6930

1. Who is the current health professional treating you for your disabling condition who would be most appropriate for us to contact to obtain an update on your ability to work?

Physician's Name	Specialty	Address	Telephone No.	Last Exam Date
DR. JASON HIGHSMITH	Neurologist	9313 MEDICAL PLAZA DRIVE SUITE 303 N. CHARLESTON, S.C. 29406	1-843 -510 -0727	02-13-18 Total no. visits 213-12-18

2. Please list any other current treating health professionals:

Physician's Name	Specialty	Condition Being Treated	Address, Telephone No.	Last Exam Date
1 DR. FITZGERALDS AT DILLON FAMILY MEDICINE	FAMILY DOCTOR	High Blood Pressure arthritis/muscle pain & joint and any new problems	603 N. 6th AVE Dillon, S.C. 29536 843-774-7336	7/1/18
2 DR. VENUGOPAL GOVINDAPPA PEEREE NEPHROLOGY	Nephrologist kidneys	Chronic Kidney Disease STAGE 3 ALSO monitors HBP & cont	1100 E. Chaves St Florence S.C. 29506	3/5/18
3 DR. TAVEL AT PAIN Specialists of Charleston	PAIN Specialist	PAIN MANAGEMENT SHOTS IN BACK	2695 ELMS PLANTATION BLVD SUITE A Charleston S.C. 29406	10/2/17

3. Have there been any recent changes in your medical condition? ☒ Yes ☐ No Can't control blood pressure.
If yes, please explain:

IM HAVING MORE NERVE PAIN from NECK AND BACK that radiates down
through my hips and legs into my feet and more muscle spasms.
I'm tired all the time and hurt all the time and the pain
medicines and nerve medicines make my brain foggy. I have
trouble concentrating & thinking. I can't take pain medicine and drive
etc. SO I hurt more
when I have P's. etc.

4. Does your medical condition prevent you from working at: Your own occupation? ☒ Yes ☐ No
Any occupation? ☒ Yes ☐ No
5. When do you expect to return to work? NOTABLE ☐ Unknown ☒ I do not expect to return to work
mo/day/year

Fraud Notice: Some states require us to inform you that any person who knowingly and with intent to injure, defraud or deceive an insurance company, or other person, files a statement containing false or misleading information concerning any fact material hereto commits a fraudulent insurance act which is subject to civil and/or criminal penalties, depending on the state. Such actions may be deemed a felony and substantial fines may be imposed.

Acknowledgment: I certify that the above information is true and complete to the best of my knowledge and belief.

Signature: 	Date: 7/23/18
Phone No.: 	Cell Phone No.: 

RECEIVED

R 458

Please return this completed form to our Benefits Department in the enclosed envelope. Thank you.

0304



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 515217706
Encounter date: 12/5/2017

CSN
1104808058

Progress Notes by Richard M. Silver, MD at 12/5/2017 11:45 AM

Author: Richard M. Silver, MD	Service: (none)	Author Type: Physician
Filed: 12/6/2017 1:57 PM	Creation Time: 12/5/2017 11:30 AM	Note Type: Progress Notes
Status: Addendum	Editor: Richard M. Silver, MD (Physician)	
Related Notes: Original Note by Stephen M Elmore, MD (Resident) filed at 12/6/2017 1:52 PM		

RHEUMATOLOGY CLINIC NOTE:

CHIEF COMPLAINT:

Chief Complaint

Patient presents with:

- Follow-up
 - Back Pain
- back pain into right and left leg numbness.*

Jerry Arnette
48 y.o.
[REDACTED]

HISTORY OF PRESENT ILLNESS: Jerry Arnette is a 48 y.o. male with a PMH of HTN, HLD, Degenerative disc disease, chronic pain, and hyperuricemia who presents today for routine follow up. Patient was last seen in June of 2017 to establish care. In brief, patient reported several years of chronic pain in arms, hands, and feet. Previous spinal surgery did not improve back pain and instead resulted in increased neuropathy. Previous imaging of his L foot demonstrated "marked DJD of the 1st MTP joint" In addition, uric acid level was found to be elevated at 8.3. Other inflammatory labs, including ANA, ESR, RF, and anti-CCP antibodies were negative. A L sided cheilectomy was performed which demonstrated no evidence of gout crystals, although patient continued to have pain, swelling, and erythema at the site. He was subsequently referred to us to evaluate for possible inflammatory or Crystalline arthropathy causing his chronic pain. After evaluation, it was felt that patient's pain again was most consistent with OA and chronic pain. However, given his elevated uric acid level, it was felt that patient would benefit from initiation of uric acid lowering therapy. As a results, it was decided to start patient on allopurinol at 100mg daily and increase to 200mg in 2 weeks based on uric acid level. In addition, we recommended use of daily Mobic in place of NSAIDs for his chronic pain as well as continued evaluation with pain management.

Since then, patient did undergo repeat lab testing following start of allopurinol, with uric acid level down to 5.9. He also followed up with nephrology due to elevated creatinine, and it was recommended that he discontinue all NSAIDs. Around 3 weeks ago, patient called office c/o increased diffuse arthralgias and myalgias, as well as pain in wrists and hips. No associated swelling. Again, it was felt that his pain was most likely from OA/chronic pain, but given symptoms, planned to repeat uric acid and check inflammatory markers. These labs were faxed to us yesterday and demonstrated normal inflammatory markers but slightly elevated uric acid level (now 7.2). Today, he reports that these aches and pains have continued, now mainly in lower back radiating down through this legs. He feels that his arm and leg strength has also worsened. He is unable to identify any triggering event that caused increased symptoms. He has started taking tylenol arthritis for pain control, but he does not find it helpful. He remains on allopurinol, but states he is only taking 100mg daily. He notes some increased pain in his R elbow, R wrist and R 2nd/3rd PIP joints but no active swelling. No associated rashes. He is inquiring regarding possible stem cell treatments for chronic back pain. No hospitalizations or other



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB [REDACTED] Sex: M
Acct #: 515217706
Encounter date: 12/5/2017

Progress Notes by Richard M. Silver, MD at 12/5/2017 11:45 AM (continued)

changes to health.

PAST MEDICAL HISTORY:

Past Medical History:

Diagnosis	Date
• Asthma	
• Gout	
• Hyperlipidemia	
• Hypertension	

PAST SURGICAL HISTORY:

Past Surgical History:

Procedure	Laterality	Date
• CERVICAL DISC SURGERY		
• CHEILECTOMY	Left	
• herniated disc		

FAMILY HISTORY:

Family History

Problem	Relation	Age of Onset
• Rheum arthritis	Mother	
• Osteoarthritis	Father	

SOCIAL HISTORY:

Social History

Social History	
• Marital status:	Single
• Spouse name:	N/A
• Number of children:	N/A
• Years of education:	N/A

Occupational History

• Not on file.

Social History Main Topics

• Smoking status:	Never Smoker
• Smokeless tobacco:	Not on file
• Alcohol use	No
• Drug use:	No
• Sexual activity:	Not on file

Other Topics

• Not on file	Concern

Social History Narrative

• No narrative on file



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 515217706
Encounter date: 12/5/2017

Progress Notes by Richard M. Silver, MD at 12/5/2017 11:45 AM (continued)

MEDICATIONS:

Current Outpatient Prescriptions

Medication	Sig	Dose	Refill
• allopurinol (ZYLORIM) 100 MG tablet	Take 2 tablets by mouth after breakfast. (Patient taking differently: Take 100 mg by mouth after breakfast.)	60 tablet	6
• ascorbic acid, vitamin C, (VITAMIN C) 1000 MG tablet	Take 2,000 mg by mouth daily.		
• cholecalciferol, vitamin D3, (VITAMIN D3) 1,000 unit tablet	Take 1,000 Units by mouth daily.		
• cyclobenzaprine (FLEXERIL) 10 MG tablet			
• diclofenac (VOLTAREN) 1 % oel			
• diclofenac sodium (PENNSAID) 1.5 % topical drops	apply 10 drops to affected area and rub in, repeat 3 times for 1 dose, use up to 4 times per day		3
• gabapentin (NEURONTIN) 300 MG capsule			
• HYDROcodone-acetaminophen (NORCO) 7.5-325 mg tablet			
• hyoscyamine (LEVBIID) 0.375 mg extended release 12 hr tablet			
• Ipratropium-albuterol (DUO-NEB) 0.5 mg-3 mg(2.5 mg base)/3 mL nebulizer solution			
• lidocaine (XYLOCAINE) 5 % ointment	Apply 1-2 grams to the affected area 3-4 times daily as needed		13
• mometasone (ELOCON) 0.1 % lotion			
• MULTIVIT-MIN/FOLIC/VIT K/LYCOP (ONE- A-DAY MEN'S MULTIVITAMIN ORAL)	Take by mouth.		
• pantoprazole (PROTONIX) 40 MG delayed release tablet			
• PROAIR HFA 90 mcg/actuation inhaler			
• promethazine (PHENERGAN) 25 MG tablet			
• SYMBICORT 160-4.5 mcg/actuation inhaler			
• tramadol (ULTRAM) 50 mg tablet			
• triamterene-hydrochlorothiazide (DYAZIDE) 37.5-25 mg per capsule			
• valsartan (DIOVAN) 80 MG tablet			
• BREO ELLIPTA 200-25 mcg/dose Disk with Device			
• ergocalciferol (DRISDOL) 50,000 unit capsule			
• furosemide (LASIX) 20 MG tablet			
• losartan (COZAAR) 25 MG tablet			
• montelukast (SINGULAIR) 10 mg tablet			
• prednisolONE acetate (PRED FORTE) 1 % ophthalmic suspension			



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3480
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 515217706
Encounter date: 12/5/2017

Progress Notes by Richard M. Silver, MD at 12/5/2017 11:45 AM (continued)

No current facility-administered medications for this visit.

ALLERGIES:

Allergies as of 12/05/2017 - Review Complete 12/05/2017

Allergen	Reaction	Noted
• Diclofenac	Other (See Comments)	06/13/2017

REVIEW OF SYSTEMS : - See HPI

PHYSICAL EXAM:

BP 129/79 | Pulse 76 | Temp 36.7 °C (98 °F) (Oral) | Wt (I) 102.4 kg (225 lb 12.8 oz)

Gen: A/Ox3, NAD, well appearing

HEENT: PERRLA, EOMI, normal conjunctivae, OP clear w/o ulcers.

Neck: Limited rotation of neck, no thyromegaly, no JVD

Pulm: CTAB, no w/r/c

Card: RRR, normal S1/S2, no m/r/g, 2+ pulses, no edema noted

Abd: +bs, non-tender, non-distended

Msk: Strength intact 5/5 BUE/BLE. TTP along the R 2nd and 3rd PIP joint, but no associated synovitis.

Crepitus noted in knees. Some pain with I/E rotation of hips. Tender points over muscle groups of the shoulders and upper arms. Erythema over the L 1st MTP joint, but no associated warmth (s/p injection this morning by podiatrist). Wearing back brace.

Neuro: No focal deficits

Skin: No rashes noted. Some continued erythema at surgical site of L 1st MTP, but no associated warmth.

RAPID 3 SCORE: 12/5/17--> 21.8 (ROS 23)

6/13/17--> DID NOT COMPLETE

LABS RESULTED:

No results found for any visits on 12/05/17.

RADIOLOGY REVIEWED:

No results found for this or any previous visit (from the past 1440 hour(s)).

ASSESSMENT: Jerry Arnette is a 48 y.o. male with a history of HTN, HLD, DDD, asthma, and hyperuricemia who presents today for follow up evaluation of continued myalgias/arthralgias. Although previous inflammatory workup was negative, given his continued symptoms (including stiffness and diffuse pain) we elected to recheck his inflammatory markers which again were negative. His uric acid level had risen and patient remained on sub-optimal allopurinol dosing, but he has no signs of an acute gout flare and he does not demonstrate evidence of polyarticular gout. Rather, feel that his pain is most likely related to chronic pain and DDD. He is already following with pain management. In addition, he would like a referral to our ortho spine physicians for evaluation and discussion of possible treatment options for his chronic pain/neuropathy. In terms of his hyperuricemia, agree that patient would benefit from increasing his allopurinol to 200mg daily. He has some mild CKD, but GFR high enough to tolerate allopurinol without issue. He is to have a repeat uric acid level in 2 weeks, and we have provided him with lab orders.

PLAN:

-Reviewed recent labs

-Will plan to increase allopurinol to 200mg daily



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

CSN
1099005251

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM

Author: Richard M. Silver, MD	Service: (none)	Author Type: Physician
Filed: 6/14/2017 3:20 PM	Creation Time: 6/13/2017 1:55 PM	Note Type: Progress Notes
Status: Addendum	Editor: Richard M. Silver, MD (Physician)	
Related Notes: Original Note by Stephen M Elmore, MD (Resident) filed at 6/14/2017 2:49 PM		

RHEUMATOLOGY CLINIC NOTE:

CHIEF COMPLAINT:

Chief Complaint

Patient presents with

- Establish Care
- Joint Pain
- Joint Swelling

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APR 13 2018

EMPLOYEE BENEFITS

Jerry Arnette
47 y.o.

HISTORY OF PRESENT ILLNESS: Jerry Arnette is a 47 y.o. male with a PMH of HTN, HLD, Degenerative disc disease, and hyperuricemia with possible gout who presents today for evaluation of his elevated uric acid as well as diffuse joint pain. Per patient, he has suffered from polyarthralgia for a number of years, mainly in his lower back and neck. However, starting a few years ago, he began to appreciate increased pain and stiffness in his hands b/l. Over time, symptoms progressed to include his feet as well. He reports lower back surgery at some point in the past, which relieved some pain. However, the procedure reportedly resulted in increased neuropathy. In reviewing recent records from his PCP, patient in October of 2016 began to complain of worsening pain in his C-spine as well as a "bunion" along the L 1st MTP joint. X-rays That day were obtained which demonstrated "marked DJD at the 1st MTP joint) as well as some osteophyte formation. Plans were in place for patient to be referred to podiatrist for this, as well as ortho neck/spine specialist for evaluation of his neck pain. It appears he underwent cervical disc surgery in March of 2017. While neck pain has improved somewhat, overall still present. In addition, during follow up with his PCP, patient continued to voice diffuse joint pain. At that time, various inflammatory arthritis labs were undertaken, including ANA, ESR, anti-CCP, and Rheumatoid factor, all of which were negative. CPK was also within normal limits. His uric acid, however, was elevated at 8.3. Bilateral hand films were also obtained, which demonstrated bone spur formation at the R 2nd PIP joint, but otherwise no evidence of erosive changes. Given his elevated uric acid level, patient was started on allopurinol therapy, which patient appears to be tolerating. However, repeat uric acid has not been obtained. In terms of his foot pain, patient moved forward with a L sided cheilectomy at the end of April. Procedure reportedly successful, and per patient, no evidence of any gout crystals appreciated during the procedure. However, patient continues to report pain, swelling, and erythema in the same L MTP joint.

For pain control, patient is using Aleve, as well as prn Oxycodone for severe pain. Feels that Aleve no longer is as effective as it was previously. Reports morning stiffness that lasts around 5 minutes in the morning but does occur intermittently throughout the day. Activity reportedly makes joint pain worse. In terms of other symptoms, he denies any rashes, ulcers, inflammatory eye pain, or chest pain. Note some dyspnea and recently undergone workup for asthma. He also reports some associated GERD and nausea. No urinary issues. No recent hospitalizations. He note that his mother was diagnosed with rheumatoid arthritis and that his father also suffers from "some type of arthritis." Patient works as a commercial driving instructor, and notes some of his



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM (continued)

job requires heavy lifting/labor. No other issues.

PAST MEDICAL HISTORY:

Past Medical History

Diagnosis	Date
• Hyperlipidemia	
• Hypertension	
• Asthma	
• Gout	

PAST SURGICAL HISTORY:

Past Surgical History

Procedure	Laterality	Date
• Cheilectomy	Left	
• Cervical disc surgery		
• Hemiated disc		

FAMILY HISTORY:

Family History

Problem	Relation	Age of Onset
• Rheum arthritis	Mother	
• Osteoarthritis	Father	

SOCIAL HISTORY:

Social History

Social History	
• Marital Status:	Single
• Spouse Name:	N/A
• Number of Children:	N/A
• Years of Education:	N/A

Occupational History

• Not on file.

Social History - Main Topics

• Smoking status:	Never Smoker
• Smokeless tobacco:	Not on file
• Alcohol Use:	No
• Drug Use:	No
• Sexual Activity:	Not on file

Other Topics

• Not on file

Social History - Narrative



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM (continued)

MEDICATIONS:

Current Outpatient Prescriptions

Medication	Site	Dispense	Refill
• allopurinol (ZYLOPRIM) 100 MG tablet			
• BREO ELLIPTA 200-25 mcg/dose Disk with Device			
• cyclobenzaprine (FLEXERIL) 10 MG tablet			
• diclofenac (VOLTAREN) 1 % gel			
• diclofenac sodium (PENNSAID) 1.5 % topical drops	apply 10 drops to affected area and rub in, repeat 3 times for 1 dose, use up to 4 times per day		3
• ergocalciferol (DRISDOL) 50,000 unit capsule			
• furosemide (LASIX) 20 MG tablet			
• gabapentin (NEURONTIN) 300 MG capsule			
• HYDROcodone-acetaminophen (NORCO) 7.5-325 mg tablet			
• lidocaine (XYLOCAINE) 5 % ointment	Apply 1-2 grams to the affected area 3-4 times daily as needed		13
• losartan (COZAAR) 25 MG tablet			
• montelukast (SINGULAIR) 10 mg tablet			
• pantoprazole (PROTONIX) 40 MG delayed release tablet			
• prednisolONE acetate (PRED FORTE) 1 % ophthalmic suspension			
• promethazine (PHENERGAN) 25 MG tablet			
• meloxicam (MOBIC) 15 MG tablet	Take 1 tablet by mouth daily as needed for moderate pain.	30 tablet	3

No current facility-administered medications for this visit.

ALLERGIES:

Allergies as of 06/13/2017 - Review Complete 06/13/2017

Allergen	Reaction	Notes
• Diclofenac	Other (See Comments)	06/13/2017

REVIEW OF SYSTEMS : - See HPI

PHYSICAL EXAM:

BP 130/81 mmHg | Pulse 70 | Temp(Src) 36.9 °C (98.4 °F) (Oral) | Resp 16 | Wt 105.507 kg (232 lb 9.6 oz)

Gen: A/Ox3, NAD, well appearing

HEENT: PERRLA, EOMI, normal conjunctivae, OP clear w/o ulcers.

Neck: Limited rotation of neck, no thyromegaly, no JVD



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM (continued)

Pulm: CTAB, no w/r/c

Card: RRR, normal S1/S2, no m/r/g, 2+ pulses, no edema noted

Abd: +bs, non-tender, non-distended

Msk: Strength intact 5/5 BUE/BLE. TTP along the R 2nd PIP joint. Crepitus noted in knees. Some pain with I/E rotation of hips. No active synovitis in joints appreciated.

Neuro: No focal deficits

Skin: No rashes noted. Some continued erythema at surgical site of L 1st MTP. Bandage in place from recent suture removal.

RAPID 3 SCORE: 6/13/17--> DID NOT COMPLETE

LABS RESULTED:

Results for orders placed or performed in visit on 06/13/17
CBC and differential

Result	Value	Ref Range
WHITE BLOOD CELLS	7.1	4.0 - 11.0 K/uL
LYMPHOCYTES - REL (DIFF)	25.0	20.0 - 45.0 %
NEUTROPHILS - REL (DIFF)	64.1	35.0 - 75.0 %
MONOCYTES RELATIVE	6.5	4.0 - 15.5 %
EOSINOPHILS, DIFF	3.5	0.5 - 5.0 %
BASOPHILS - REL (DIFF)	0.9	0.1 - 2.0 %
LYMPHOCYTES ABSOLUTE	1.8	1.1 - 4.4 K/uL
NEUTROPHILS ABSOLUTE	4.5	2.2 - 7.9 K/uL
MONOCYTES ABSOLUTE	0.5	0.1 - 1.6 K/uL
EOSINOPHILS ABSOLUTE	0.30	0.00 - 0.50 K/uL
BASOPHILS ABSOLUTE	0.1	0.0 - 0.2 K/uL
RED BLOOD CELL COUNT	4.98	4.06 - 5.63 M/uL
HEMOGLOBIN	14.4	12.0 - 18.0 gm/dL
HEMATOCRIT	43.1	36.0 - 52.0 %
MEAN CORPUSCULAR VOLUME	86.6	77.0 - 106.0 fL
MEAN CORPUSCULAR HEMOGLOBIN	28.9	26.0 - 35.0 pg
MEAN CORPUSCULAR HEMOGLOBIN CONC	33.3	32.0 - 36.0 g/dL
RED CELL DISTRIBUTION WIDTH	13.0	11.6 - 16.4 %
PLATELETS	245	140 - 440 K/uL
MEAN PLATELET VOLUME	8.7	7.3 - 10.3 fL

Comprehensive metabolic panel

Result	Value	Ref Range
GLUCOSE	138 (H)	70 - 110 mg/dL
UREA NITROGEN, BLOOD (BUN)	17.0	6.0 - 24.0 mg/dL
CREATININE	1.23	0.55 - 1.30 mg/dL
BUN/CREATININE RATIO	14	6 - 30 ratio
SODIUM	141	136 - 145 mEq/L
POTASSIUM	4.2	3.5 - 5.1 mEq/L
CHLORIDE	104	98 - 107 mEq/L
CO2	28.0	21.0 - 32.0 mEq/L
ALBUMIN	4.40	3.40 - 5.00 gm/dL
TOTAL PROTEIN	7.6	6.4 - 8.2 gm/dL
GLOBULIN	3.2	1.4 - 4.8 gm/dL



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM (continued)

ALBUMIN/GLOBULIN RATIO	1.4	1.0 - 2.5 ratio
BILIRUBIN, TOTAL	0.5	0.2 - 1.3 mg/dL
ALKALINE PHOSPHATASE	100	46 - 116 U/L
ALANINE AMINOTRANSFERASE (ALT)(SGPT)	54	12 - 78 U/L
ASPARTATE AMINOTRANSFERASE (AST)(SGOT)	21	10 - 36 U/L
CALCIUM	9.3	8.4 - 10.1 mg/dL
GLOM FILT RATE, EST	> 60	mL/min/1.73sq.m
Sedimentation rate, automated		
Result	Value	Ref Range
SED RATE	7	0 - 15 mm/Hr.
CRP, LOW SENSITIVITY (INFLAMMATION)		
Result	Value	Ref Range
CRP	<0.29	0.00 - 0.30 mg/dL
Uric acid		
Result	Value	Ref Range
URIC ACID	6.7	3.5 - 7.2 mg/dL
MAGNESIUM		
Result	Value	Ref Range
MAGNESIUM	2.2	1.7 - 2.3 mg/dl

RADIOLOGY REVIEWED:

No results found for this or any previous visit (from the past 1440 hour(s)).

ASSESSMENT: Jerry Arnette is a 47 y.o. male with a history of HTN, HLD, DDD, asthma, and recently discovered hyperuricemia who presents today for evaluation of polyarthralgias. In talking with patient, he reports diffuse joint pain, worse in his hands, lower back, neck, and feet. Patient has already received a significant inflammatory arthritis workup, with negative rheumatoid factor, anti-ccp, and ANA. In addition, his inflammatory markers remain negative. X-rays of the hands and L foot demonstrate no evidence of bony erosion, but do demonstrate evidence of osteophyte formation and other changes suggestive of OA. He also voices a history of neck and back problems that he has undergone surgical correction for along with a job that includes heavy lifting. Labs today again demonstrated normal inflammatory markers. At this time, based on previous workup feel that osteoarthritis is like the cause of the majority of patient's pain. A seronegative spondyloarthritis is still possible, and would like to obtain SI joint films, but patient reports a recently obtained lumbar films from his neurologist. Will attempt to obtain records to r/o possible SI joint inflammation. Although previously it appears that patient's MTP pain was attributed to a possible bunion, his description of the pain as well as his elevated uric acid level is highly suggestive of an episode of gout (podagra). He is on allopurinol, but repeat uric acid had yet to be obtained. We repeated today, and it still remains above goal level of 6; will plan on increasing allopurinol appropriately. For his OA pain, we recommended stopping Aleve and undergoing trial of Mobic, 15mg daily along with prn Tylenol. Patient is agreeable to plan.

- obtain labs today
- Stop Aleve and start Mobic (meloxicam) 1 pill daily
- Ok to take tylenol as needed with it
- Do NOT Take any other ibuprofen with this mobic
- Stretch for your muscle cramps along with staying hydrated and eating a banana.
- See us back in 6 months.



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Arnette, Jerry
MRN: 005751845, DOB: [REDACTED] Sex: M
Acct #: 513187824
Encounter date: 6/13/2017

Progress Notes by Richard M. Silver, MD at 6/13/2017 1:55 PM (continued)

PLAN:

- Check CBC, CMP, ESR, CRP, Uric acid, and Mag (see above)
- Stop Aleve and start Mobic 15mg daily
- Plan to increase Allopurinol to 200mg daily with repeat uric acid in 2 weeks
- Increase hydration and stretching for muscle cramps
- Obtain outside lumbar films
- RTC in 6 months

Patient seen and discussed with attending Dr. Silver

Orders Placed This Encounter

Procedures

- CBC and differential
- Comprehensive metabolic panel
- Sedimentation rate, automated
- CRP, LOW SENSITIVITY (INFLAMMATION)
- Uric acid
- MAGNESIUM

Return in about 6 months (around 12/13/2017).

Stephen Elmore, MD
MUSC Rheumatology and Immunology, PGY-4
pgr 15483
6/14/2017 2:33 PM

ATTENDING ATTESTATION

I have seen, examined, and discussed this patient with Stephen Elmore, MD and agree with the findings, assessment, and plan. (GC)

Richard M. Silver, MD

CC: Timothy Fitzgibbon
603 North 6th Avenue
DILLON, SC 29536

Electronically signed by Richard M. Silver, MD on 6/14/2017 3:20 PM

Image Collection: 125408008 (Image 1 of 1)

03/26/2018 3:54:13 PM -0400

PAGE 1 OF 1

RADIOLOGY REPORT

McLEOD REGIONAL MEDICAL CENTER

811 E CHURCH STREET FLORENCE, SC 29505-2617
PHONE (843) 777-2087

PATIENT NAME:	ARNETTE, JERRY MONROE	DISCHARGE DATE:	
PT ACCOUNT#:	080137765756	MR/RAD#:	857241
ACCESSION#:	8470246	CID#:	857241
DOR:	AGE: 48Y	SEX:	M RACE: W
PHONE:		PT CLASS:	O FIN CLASS: V
ADDRESS:	555 PEARL RD DILLON, SC 29536	PT TYPE:	K PT NEROOM: -
ORDER DR:	VENUGOPAL S. GOVINDAPPA M.D.	DATE OF SERVICE:	Mar 26 2018 9:33AM
ATTEND DR:	VENUGOPAL S. GOVINDAPPA M.D.		
COPY TO:			
DIAGNOSIS:	N18.3		
ORDER DR:	VENUGOPAL S. GOVINDAPPA M.D.		
ATTEND DR:	VENUGOPAL S. GOVINDAPPA M.D.		
TRANSCRIBED DT:	Mar 26 2018 3:54PM		
PROCEDURE:	US KIDNEY BILATERAL / ORD #: 90001 Accession#: 8470246 CPT: 76775		
ORDERED FOR:	Mar 26 2018 9:30AM COMPLETED: Mar 26 2018 9:47AM		
INDICATIONS/COMMENTS:	N18.3 CKD STAGE 3		

RESULT:
FINDINGS:

Sonographic imaging of the kidneys was performed and 28 static images are reviewed.

The right kidney measures 11.7 x 5.7 cm and the left kidney measures 12.5 x 5.9 cm. The kidneys are normal in echotexture without evidence of hydronephrosis. There are no stones, or solid renal masses.

The urinary bladder is normal in appearance.

IMPRESSION:
NORMAL RENAL ULTRASOUND.

READING DR: MARY BETH LEWIS M.D.
READING DATE: Mar 26 2018 3:54PM

Final Result
ELECTRONICALLY SIGNED BY:
MARY BETH LEWIS M.D.
On: Mar 26 2018 3:55PM

Printed: March 26, 2018 (3:58PM)

CAROLINA RADIOLOGY ASSOCIATES

Page 1

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Pee Dee Nephrology, L.L.P.

Diseases of kidney, urinary system and hypertension
1100 E. Cheves Street
Florence, South Carolina 29506-2708
Phone 843/669-8694

John C. Pittard, M.D.
Inderpal Singh, M.D., F.A.C.P., F.A.S.N.
Pongstorn Pliiranggon, M.D.
Farhan Maqsood, M.D.

Venugopal Govindappa, M.D.
Samuel K. Okoh, M.D.
Karthik Karanam, M.D.

Patient Name: Jerry Arnette

DOB: [REDACTED]

Chart #: 52843

Date: Mar 05, 2018

The patient is seen in clinic today for follow-up of chronic kidney disease stage 3.
Hypertension, Gout,

History of Present Illness:

The patient has had no significant interval changes in health or medical history to report.

Complaints of hair loss and possible diagnosis of brain metastases syndrome,
at this time.

Current symptoms include

Medication List

Medication	Sig	Start Date
allopurinol 100 mg tablet	2 tablet by mouth once a day	
aspirin 81 mg tablet, delayed release (DRIEC)	TAKE 1 TABLET BY MOUTH DAILY	
Carafate (sucralfate) 100 mg/mL suspension	Take 10 ml by mouth four times a day	
cyclobenzaprine 10 mg tablet	1 tablet by mouth every eight hours	
hyoscyamine sulfate 0.375 mg tablet extended release 12 hr	1 tablet by mouth twice a day	
montelukast 10 mg tablet	TAKE ONE TABLET BY MOUTH ONCE DAILY	
oxycodone- acetaminophen 5-325 mg tablet	1-2 tablet by mouth every four hours as needed for pain	
ProAir HFA (albuterol sulfate) 90 mcg/actuation HFA aerosol inhaler	2 puff as needed	
ranitidine HCl 150 mg tablet	1 tablet by mouth twice a day. TAKE ONE TABLET BY MOUTH TWICE DAILY	
Symbicort (budesonide- formoterol) 160-4.5 mcg/actuation HFA aerosol inhaler	2 PUFF AS DIRECTED TWICE A DAY AS DIRECTED	
tramadol 50 mg tablet	Take 1 tablet by mouth three times a day as needed	
valsartan 80 mg tablet	Take 1 tablet by mouth once a day	

R 508

Vitamin D3 1 tablet by mouth once a day
 (cholecalciferol (vitamin d3)) 5,000 unit tablet

Allergy List

<u>Allergen</u>	<u>Reaction</u>	<u>Onset Date</u>
Flector (diclofenac epolamine)	unspecified	

Review of Systems

All negative except those noted.
 Wt Gain.Appetite Loss.

Physical Exam

Vital Signs - [As of 03/05/2018]
 03/05/2018

Height: 6 ft 2 in
 Weight: 221.5 lbs
 BMI: 28.4
 Blood Pressure:
 139/80 mm Hg (Right Arm Sitting)
 Pulse:
 No site Sitting at 68 bpm

General appearance: Normal.
 Skin inspection: Normal.
 Eye inspection: Conjunctiva/lids: Normal.
 Pupils: PERRLA.
 Retinal exam:
 Nose/Mouth/Throat: Normal.
 Ears: Normal.
 Neck: No JVD.
 Lymphatic: No adenopathy.
 Respiratory exam: Normal lung sounds. Percussion:
 Cardiovascular: S1, S2 without murmur, rub or gallop.
 Vascular exam: Normal.
 Extremities: Trace edema.
 Vascular access: No access present or needed.
 Abdominal: Soft, non tender, positive bowel sounds.
 Genitourinary:
 Musculoskeletal: Normal musculature.
 Motor: Normal symmetrical strength.
 Sensory: Normal.
 DTR: Symmetric 1 plus.

R 509

Jason M. Highsmith, MD, FACS
9313 Medical Plaza Drive, Suite 305
North Charleston, SC 29406
843-553-7615 / 843-553-1008 (fax)

PATIENT: ARNETTE, JR., JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN:

OFFICE NOTES

DATE OF SERVICE: 02/13/2018

HISTORY OF PRESENT ILLNESS: Mr. Arnette continues to suffer from axial low-back pain with residual right leg pain radiating to the right calf and shin. He has had a previous L4-5 decompression. Most of his pain remains axial in nature. He has an annular tear at L4-5, but is not interested in any type of fusion. He has been taking turmeric three times a day, but now says he has kidney disease. I told him to consult with his kidney doctor to make sure that turmeric is not contributing to his chronic kidney disease.

He is here today to discuss additional treatment options.

PHYSICAL EXAMINATION: He has axial low-back pain with residual L4-5 numbness on the right. He has good strength at this time.

IMPRESSION: The patient has lumbar disc disease at L4-5 and to a lesser degree at L5-S1. I do not see a focal surgical lesion for which I can recommend treatment short of an L4-5 stabilization with fusion.

PLAN: I am recommending he continue with pain management and we will have him follow-up as needed.

JMH:lzd

Jason M. Highsmith, MD, FACS
9313 Medical Plaza Drive, Suite 305
North Charleston, SC 29406
843-553-7615 / 843-553-1008 (fax)

PATIENT: ARNETTE, JR., JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dillon Family Medicine 843-774-7331

CC: Dr. Ed Tavel 818-1145

OFFICE NOTES

DATE OF SERVICE: 10/17/2017

HISTORY OF PRESENT ILLNESS: Mr. Arnette had an L4-5 decompression previously, but has had recurrent right leg pain. He, also, had radiofrequency ablation on the right side with little relief.

He is here today to discuss additional treatment options.

PHYSICAL EXAMINATION: He has some right L4-5 numbness, but, otherwise, good strength.

IMPRESSION/RECOMMENDATIONS: The patient's symptoms seem to be coming from an L4-5 annular tear which is at the site of his previous massive disc herniation. We discussed treatment options, including spinal cord stimulator trial, as well as stem cell therapy at the L4-5 level. I have asked him to discuss this treatment with Dr. Tavel. He is, also, a candidate for an L4-5 LLIF with pedicle screws, but, again, if we can do less invasive measures, such as the stem cell study, I think he is a good candidate.

JMH:lsd

RECEIVED
MAR 01 2018
EMPLOYEE BENEFITS

Jason M. Highsmith, MD, FACS
9313 Medical Plaza Drive, Suite 305
North Charleston, SC 29406
843-553-7615 / 843-553-1008 (fax)

PATIENT: ARNETTE, JR., JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dillon Family Medicine 843-774-7331

OFFICE NOTES

DATE OF SERVICE: 07/25/2017

HISTORY OF PRESENT ILLNESS: Mr. Arnette had an anterior cervical arthroplasty from which he did well. He is still having axial low-back pain and has known subsidence at L4-5. He has had some recurrent left leg pain, as well. He has been unable to return to work given his exacerbation of pain. He is currently undergoing pain management with Dr. Ed Tavel.

PHYSICAL EXAMINATION: He has moderate mechanical back pain. He has numbness in the shins bilaterally, but, at this point, good strength.

IMPRESSION: The patient has lumbar facet arthropathy at L4-5.

PLAN: I am recommending he follow-up with Dr. Tavel for additional treatment options. He does have some disc disease at L5-S1, so he may not be a candidate for the stem cell study. Regardless, we will defer to Dr. Tavel for further management and treatment. In the interim, we will keep him out of work and recommend physical therapy for low-back strengthening.

JMH:lsd

ARNETTE, JERRY M, JR (id #511, dob: [REDACTED])

Name ARNETTE, JERRY (48yo, M) ID# 559211 **Appt. Date/Time** 02/21/2018 09:15AM
DOB [REDACTED] **Service Dept.** CPUL NEW LOC 805 CAROLINAS PULMONOLOGY
Provider MOHAMED ZEIN, MD
Insurance Med Primary: BCBS-SC - STATE EMPLOYEES PLAN
 Insurance # : ZCS53859853
 Policy/Group # : 002034203
 Prescription: ESI1 - Member is eligible. details

Chief Complaint

Followup: Acid reflux
 Followup: Asthma

Patient's Care Team

Primary Care Provider: TIMOTHY FITZGIBBON MD: 603 N 6TH AVE, DILLON, SC 29536, Ph (843) 774-7336, Fax (843) 774-7331 NPI: 1467473801

Patient's Pharmacies

CVS/PHARMACY #3843 (ERX): 1211 HWY. 301 NORTH, DILLON SC 29536, Ph (843) 774-4221, Fax (843) 774-0730

Vitals

Ht: 6 ft 2 in (187.96 cm) 02/21/2018 09:10 am	Wt: 218.9 lbs (99.29 kg) 02/21/2018 09:11 am	BMI: 28.1 02/21/2018 09:11 am
BP: 129/91 sitting 02/21/2018 09:13 am	T: 98.4 F° oral (36.89 C) 02/21/2018 09:11 am	Pulse: 61 bpm 02/21/2018 09:12 am
RR: 14 02/21/2018 09:11 am	O2Sat: 98% Room Air at Rest 02/21/2018 09:12 am	

Allergies

Reviewed Allergies
 NKDA

Medications

Reviewed Medications

allopurinol 100 mg tablet	01/14/18 filled
Ayr Saline 0.65 % nasal spray aerosol Take 1 spray(s) twice a day by nasal route for 15 days.	12/13/17 prescribed
cyclobenzaprine 10 mg tablet	08/10/17 filled
fluticasone 50 mcg/actuation nasal spray,suspension Spray 1 spray(s) twice a day by Intranasal route for 10 days.	12/14/17 filled
Fluvirin 2017-2018 45 mcg (15 mcg x 3)/0.5 mL Intramuscular suspension ADM 0.5ML IM UTD	08/31/17 filled
gabapentin 300 mg capsule	01/13/18 filled
hyoscyamine ER 0.375 mg tablet,extended release,12 hr	12/15/17 filled
ipratropium-albuterol 0.5 mg-3 mg(2.5 mg base)/3 mL nebulization soln Inhale 3 mL 4 times a day by nebulization route for 30 days.	02/21/18 prescribed
pantoprazole 40 mg tablet,delayed release R 655	02/03/18 filled

0321

ProAir HFA 90 mcg/actuation aerosol Inhaler

Inhale 2 puff(s) every 4 hours by Inhalation route as needed for 30 days.

02/21/18 prescribed

Singulair 10 mg tablet

Take 1 tablet(s) every day by oral route for 30 days.

02/21/18 prescribed

Symbicort 160 mcg-4.5 mcg/actuation HFA aerosol Inhaler

Inhale 2 puff(s) twice a day by Inhalation route as directed for 30 days.

02/21/18 prescribed

traMADol 50 mg tablet

02/08/18 filled

valsartan 80 mg tablet

01/14/18 filled

Vaccines

Reviewed Vaccines

Vaccine Type	Date	Amnt	Route	Site	Lot #	Mfr	Exp Date	Date an VIS	VIS Given	Vaccinator
Diphtheria/Tetanus										
Td (adult), adsorbed	03/06/98									
DT (pediatric)	02/09/93									
DT (pediatric)	09/13/82									
Diphtheria, Tetanus, Pertussis										
DTP	05/15/74									
DTP	12/07/70									
DTP	12/29/69									
DTP	11/28/69									
DTP	10/28/69									
Influenza										
influenza, trivalent, adjuvanted	08/31/17				1720801					
Influenza, seasonal, injectable	08/31/17									
influenza, seasonal, injectable	10/07/16				(DFM)1618901					
Influenza, seasonal, injectable, preservative free	10/28/15				157603	No vartis Pharmaceutical Corporation				
influenza	12/09/05									
Measles/Mumps/Rubella										
mumps	05/15/82									
rubella	10/06/70									
rubella	09/01/70									
Pneumococcal										
pneumococcal polysaccharide PPV23	11/01/16				(DFM)M040004	Merck and Co., Inc.				
Polio										
OPV	05/15/74									
OPV	12/07/70									
OPV	12/29/69									
OPV	11/28/69									
OPV	10/28/69									

Problems

R 656

Reviewed Problems

0322

TRIDENT MEDICAL CENTER
9330 MEDICAL PLAZA DRIVE
CHARLESTON, SC 29406

NAME: ARNETTE, JERRY MONROE JR
UNIT#: D000714103
Adm Date: 03/06/17
Dictated By: Highsmith, Jason M MD

ROOM #: D.623-A
Acc #: D00054174397

Report Name: OPERATIVE REPORT

Date of Operation: 03/06/2017

PREOPERATIVE DIAGNOSES:

1. Cervical disk herniation at C5-6.
2. Cervical disk herniation at C6-7.

PROCEDURES PERFORMED:

1. Anterior cervical discectomy and arthroplasty (22856) x2.
2. Intraoperative fluoroscopy with interpretation.
3. Intraoperative microscope use.

SURGEON:

Jason Highsmith, MD

ASSISTANT:

None.

INDICATION FOR PROCEDURE:

The patient is a gentleman with history of neck and radicular arm pain, felt to be a candidate for surgical decompression having failed less invasive measures. He understands risks, benefits and alternatives of disk replacement. Specific risks discussed including, but not limited to bleeding, infection, neurologic injury, spinal fluid leakage, numbness, weakness, paralysis, hoarseness, swallowing difficulty, worsening or no improvement of symptoms, need for further revision as well as suboptimal pain relief and risks of anesthesia.

PROCEDURE IN DETAIL:

After obtaining informed consent, the patient was taken to the operating room where he underwent the successful induction of general endotracheal anesthesia. The neck was mildly extended, prepped and draped in standard sterile fashion. A 10-blade scalpel was used to make a transverse incision at the lower cervical skin fold. We dissected this plane medial to the sternocleidomastoid and carotid sheath down to prevertebral fascia and localized at C5-6. We placed self-retaining pins and Caspar distractor and carried out discectomy. We found significant posterior herniation with subligamentous disk, which we removed and scraped the endplates clean and sized a 14 x 16 mm Globus Secure C spacer with 6 mm in height. We verified the proper position with AP and lateral fluoroscopy and then used a ____ bit to drill keel cuts. We cleaned the keel cuts and again inspected the epidural space under microscope visualization. We copiously irrigated the wound with bacitracin solution we then placed a 6 mm graft without difficulty.

We repeated the procedure at C6-7 with identical findings. Both grafts had

Patient Name: ARNETTE, JERRY MONROE JR

Account #: D00054174397

R 667

excellent fixation in the surrounding anatomy. We then sealed the anterior edges with bone wax. We inspected the soft tissues and found them to be free of injury and then closed the wound in anatomic layers followed by application of sterile dressing. All sponge and needle counts were correct at the end of the case.

ESTIMATED BLOOD LOSS:
Less than 50 mL

OPERATIVE COMPLICATIONS:
None apparent.

Dictation ID / Confirmation #: 3296747 / 3009443
DD: 03/06/2017 16:51 / DT: 03/06/2017 22:40
Authenticated by JASON M HIGHSMITH, MD On 03/07/2017 06:36:30 AM

Electronically signed by Jason M Highsmith, MD on 03/07/17 at 0736

Patient Name: ARNETTE, JERRY MONROE JR

Account #: D00054174397

RECEIVED
MAR 12 2018
EMPLOYEE BENEFITS

R 668

TRIDENT MEDICAL CENTER
9330 MEDICAL PLAZA DRIVE
CHARLESTON, SC 29406

NAME: ARNETTE, JERRY MONROE JR
UNIT #: D000714103
ADM Date:
D/C Date:
Dictated By: Highsmith, Jason M MD
Report Name: HISTORY AND PHYSICAL

ROOM #:
Acc #: D00054174397

LOC: D.TACC

DATE OF ADMISSION:

ADMITTING DIAGNOSIS:
Cervical disk herniation C5-6, C6-7.

HISTORY OF PRESENT ILLNESS:
The patient is a gentleman with history of worsening neck and radicular left arm pain, felt to be a candidate for surgical decompression having failed less invasive measure. He is here today for anterior cervical discectomy and arthroplasty at C5-C6 and C6-7.

PAST MEDICAL HISTORY:
Lumbar discectomy in 2016 by myself, wisdom teeth extraction.

MEDICATIONS:
None.

ALLERGIES:
LATEX.

REVIEW OF SYSTEMS:
Positive for muscle pain, walking problems.

SOCIAL HISTORY:
The patient is currently working as a CDL license examiner. He does not smoke or drink alcohol.

FAMILY HISTORY:
Noncontributory.

PHYSICAL EXAMINATION:
HEAD: Normocephalic.
NECK: Supple.
CHEST: Clear.
CARDIOVASCULAR: Regular.
ABDOMEN: Nontender.
NEUROLOGIC: The patient has left grip and triceps weakness at 4/5 as well as left C6 sensory loss.

PLAN:
Cervical discectomy and arthroplasty, C5-C6 and C6-7.

Patient Name: ARNETTE, JERRY MONROE JR

Account #: D00054174397

Dictation ID / Confirmation #: 3283846 / 2997518
DD: 02/28/2017 16:26 / DT: 02/28/2017 21:36
Authenticated by JASON M HIGHSMITH, MD On 03/05/2017 08:27:01 PM

Electronically Signed by Jason M Highsmith, MD on 03/05/17 at 2127

Patient Name: ARNETTE, JERRY MONROE JR

Account #: D00054174397

R 670



Pain Specialists

Edward Tavel, MD & Ryan Gabea, MD

Neurology Specialists

David Scholtes, MD & Patricia Myers, MD

ARNETTE, JERRY M

47 Y old Male, DOB [REDACTED]

Account Number: 52042

555 PEARLIERD, DILLON, SC 29536-6045

Home: [REDACTED]

Guarantor: ARNETTE, JERRY M Insurance: BCSTATE Payer ID: SX103

Referring: JASON M HIGHSMITH, MD

Appointment Facility: PAIN SPECIALISTS OF CHARLESTON

06/21/2017

PROGRESS NOTES: Edward M. Tavel, MD

Reason for Appointment

1. Low Back Pain

History of Present Illness

Response to treatment since last visit:

Response to last injection: Patient was here on 5/31/2017 for a #1 INT LESI L4-5 and reports 40% relief lasting for 2 weeks..

Pain Management:

Patient is here today for a #2 INT LESI L4-5 and rates pain a 7/10 on a pain scale. Patient states that pain radiates into the hips and down the legs, all the to the knees. Patient states that neither side is more severe. Patient complaining of constant numbness in RIGHT lower leg and foot.

Assessments

1. Radiculopathy, lumbar region - M54.16 (Primary)

Treatment

1. Radiculopathy, lumbar region

Notes: After today's injection, we will schedule a follow up appointment for the patient in 3 weeks to discuss results. Patient instructed that sedation will remain in system for 24 hours and cause drowsiness, no driving or operating heavy machinery. Do not drink alcohol. Rest today and resume normal activity tomorrow, use ice for soreness.

Procedures

***Lumbar Epidural Steroid Injection:**

Location INTERLAMINAR L4-5. Pre-procedure Diagnosis M54.16 Radiculopathy, lumbar region. Plan of Treatment Will do a Lumbar Epidural Steroid Injection today Interlaminar approach. Sedation Total of 2mg Versed admin IVP Schaefer, Virginia 6/21/2017 9:12:25 AM > . Procedure Detail Interlaminar L4-5: The procedure and potential risks were explained to the patient and informed written consent was obtained. The patient was escorted to the procedure room and placed in the prone position. Pillows were utilized for proper positioning and comfort. The patient's lower back was prepped with iodine x3 and draped in a sterile fashion. Subcutaneous 1% lidocaine was instilled into the superficial soft tissue of the patient's lower back for local anesthesia. With fluoroscopic guidance, an 18 gauge Tuohy needle is advanced toward the interlaminar space of L4-5. The needle is advanced with "loss of resistance" technique into the epidural space. Correct needle placement was confirmed through review of the AP fluoroscopic view, and 1cc contrast was injected which confirmed good flow throughout the epidural space and no evidence of vascular flow or flow into adjacent compartments. Then, 3cc normal saline and 80mg depomedrol was injected. The needle was gently removed. The patient tolerated the procedure well, and was transported to the recovery area for observation and discharge instructions. Post-procedure Observation Transported to recovery area via wheelchair in stable condition. IV removed, no redness noted, written discharge instructions reviewed with patient and driver. Patient at baseline mobility without weakness or numbness in extremities. VSS at BP:141/87, HR:60. The patient rates pain 6 /10 on pain scale. Escorted to private vehicle without incident IV OUT Schaefer, Virginia 6/21/2017 9:18:31 AM > , IV OUT, Anderson, Shannon 6/21/2017 9:20:20 AM > . Post-procedure Diagnosis Same as pre-procedure diagnosis. Intra-procedure Monitoring Vital signs monitored constantly through procedure and remained stable. Patient easily arousable, oriented, able to follow commands and answer questions throughout entire procedure. Notes Will see patient back in 2-3 weeks for follow up.

Follow Up

3 Weeks (Reason: Injection fu)

R. 682

0327

Electronically signed by EDWARD TAVEL , MD on 02/26/2018 at 08:16 AM EST
Sign off status: Pending

PAIN SPECIALISTS OF CHARLESTON
2695 ELMS PLANTATION BLVD
NORTH CHARLESTON, SC 29405017
Tel: 843-818-1181
Fax: 843-818-1145

Patient: ARNETTE, JERRY M DOB: [REDACTED] Progress Note: Edward M. Tavel, MD 06/21/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

**Pain Specialists**

Edward Tavel, MD & Ryan Gabea, MD

Neurology Specialists

David Stricker, MD & Patricia Hyatt, MD

ARNETTE, JERRY M

47 Y old Male, DOB [REDACTED]

Account Number: 52042

555 PEARLIERD, DILLON, SC-29536-6045

Home: [REDACTED]

Guarantor: ARNETTE, JERRY M Insurance: BCSTATE Payer ID: SX103

Referring: JASON M HIGHSMITH, MD

Appointment Facility: PAIN SPECIALISTS OF CHARLESTON

05/31/2017

Edward M. Tavel, MD

Reason for Appointment

1. Low Back Pain

History of Present Illness**Pain Management:**

Mr. Arnette is here today for a new patient INT LESI.

The patient is complaining of pain located in the lower back, lower extremity. The pain began years ago. The pain occurred just came on. The pain is described as sharp, shooting, dull, stabbing, achey, numbness/tingling. The pain radiates down into the legs. The severity of the pain is 7/10 average, 10/10 max. The timing of the pain is continuous. The pain is improved by lying down, rest. The pain is aggravated by sitting, sitting to standing, standing, walking. Imaging studies that have been performed include MRI. Medications that have been utilized include non-steroidal anti-inflammatories, narcotics - help. Treatments have included physical therapy - started in Feb 2017

epidural steroid injections - Fall of 2016 - to present Dr. Cline

massage therapy - Feb 2017

back brace - help

traction - help.

Patient complains of lower back pain that radiates down into the buttocks, thighs and into the feet. Patient states that the RIGHT Side is more severe. Patient complains is numbness/tingling. Patient rates pain today a 7/10 on the pain scale.

Assessments

1. Radiculopathy, lumbar region - M54.16 (Primary)

Treatment

1. Radiculopathy, lumbar region

Notes: After today's injection, we will schedule a repeat procedure for the patient in 2-3 weeks to provide additional relief. Patient instructed that sedation will remain in system for 24 hours and cause drowsiness, no driving or operating heavy machinery. Do not drink alcohol. Rest today and resume normal activity tomorrow, use ice for soreness.

Procedures***Lumbar Epidural Steroid Injection:**

Location INTERLAMINAR L4-5. Pre-procedure Diagnosis M54.16 Radiculopathy, lumbar region. Plan of Treatment Will do a Lumbar Epidural Steroid Injection today interlaminar approach. Sedation Total of 2mg Versed admin NVP Berford, Kayla 5/31/2017 10:55:33 AM > . Procedure Detail Interlaminar L4-5: The procedure and potential risks were explained to the patient and informed written consent was obtained. The patient was escorted to the procedure room and placed in the prone position. Pillows were utilized for proper positioning and comfort. The patient's lower back was prepped with iodine x3 and draped in a sterile fashion. Subcutaneous 1% lidocaine was instilled into the superficial soft tissue of the patient's lower back for local anesthesia. With fluoroscopic guidance, an 18 gauge Tuohy needle is advanced toward the interlaminar space of L4-5. The needle is advanced with "loss of resistance" technique into the epidural space. Correct needle placement was confirmed through review of the AP fluoroscopic view, and 1cc contrast was injected which confirmed good flow throughout the epidural space and no evidence of vascular flow or flow into adjacent compartments. Then, 3cc normal saline and 80mg dexamethasone was injected. The needle was gently removed. The patient tolerated the procedure well, and was transported to the recovery area for observation and discharge instructions. Post-procedure Observation Transported to recovery area via wheelchair in stable condition, IV removed, no redness noted, written discharge instructions reviewed with patient and driver. Patient at baseline mobility without weakness or numbness in extremities. VSS

0329

at 5P:12/1/00, HRC00. The patient rates pain 10/10 on pain scale. Escorted to private vehicle without incident IV OUT Benford, Kayla 5/31/2017 10:59:42 AM > , Tennant, Jenna 5/31/2017 11:04:56 AM > . Post-procedure Diagnosis Same as pre-procedure diagnosis. Intra-procedure Monitoring Vital signs monitored constantly through procedure and remained stable. Patient easily arousable, oriented, able to follow commands and answer questions throughout entire procedure. Notes Will see patient back in 2 weeks and repeat block if indicated.

Follow Up
2 Weeks (Reason: REPEAT INT LESI)

Electronically signed by EDWARD TAVEL , MD on 02/26/2018 at 08:16 AM EST
Sign off status: Pending

PAIN SPECIALISTS OF CHARLESTON
2695 ELMS PLANTATION BLVD
NORTH CHARLESTON, SC 294065017
Tel: 843-818-1181
Fax: 843-818-1145

Patient: ARNETTE, JERRY M DOB: [REDACTED] Progress Note: Edward M. Tavel, MD 05/31/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

7/20/2017

<https://secure.ssa.gov/i3368/msgpages/Rec00>

① Record Number: *TRIDENT MEDICAL CENTER*

Emergency Room Visits: No

Inpatient Stays: Yes

Admission Date 1: 5-9-16

Discharge Date 1: 5-10-16

Admission Date 2: 3-6-17

Discharge Date 2: 3-7-17

Admission Date 3:

Discharge Date 3:

Outpatient Visits: No

Medical Conditions Treated: Lower back pain radiating down both legs in 2016. Then in 2017 chest and shoulder pain radiating down right arm and hand weakness.

Treatment Received: Lower back surgery 2016. Neck surgery 2017

Hospital/Clinic 2

Hospital/Clinic Details

Name: Charleston Surgery Center

Name of Healthcare Professional Treated By: Dr. Edwin Blitch

Address: 2690 Lake Park Dr, North Charleston, South Carolina, 29406

Phone Number: (843) 764-0992

Record Number:

Emergency Room Visits: No

Inpatient Stays: No

Outpatient Visits: Yes

First Visit: 4-26-17

Last Visit: 4-26-17

Next Scheduled Visit:

Medical Conditions Treated: Foot pain and swelling.

Treatment Received: I had foot surgery performed on my left foot on 4-26-17

Hospital/Clinic 3

Hospital/Clinic Details

Name: First Health Moore Regional

Name of Healthcare Professional Treated By: Dr. Neil Griffin + *DARRIN CUTRELL*

Address: 925 S Long drive, Rockingham, North Carolina, 28379

Phone Number: (910) 417-3000

Record Number:

Emergency Room Visits: No

Inpatient Stays: No

Outpatient Visits: Yes

First Visit: 5-11-17

R 729

0331

JERRY M. ANNETT

Doctor/Healthcare Professional 1

Doctor/Healthcare Professional Details

① Name: Dr. Jason Highsmith / NEUROSURGEON

Office Name: Charleston Brain and Spine

Address: 9313 Medical Plaza Drive Suite 305, North Charleston, South Carolina, 29406

Phone Number: (843) 553-7615

Patient ID Number:

Treatment

First Visit: 2-2-16

Last Visit: ~~6-13-17~~ 10-17-17

Next Scheduled Appointment: ~~7-25-17~~ 2-13-18

Medical Conditions Treated: Dr. Highsmith treated me for degenerative disc disease that was causing chronic pain of the back and neck with sciatic nerve pain radiating down both legs. This pain was most severe in my lower back and right leg with numbness in my right foot and calf with weakness.

Treatment Received: Dr. Highsmith performed lower back surgery in 2016. Later, he performed neck surgery replacing two disc with artificial disc in 2017. *prescribed physical therapy. Completed Physical Therapy*

CVS Pharmacy

ARNETTE, JERRYJR
555 PEARLIE RD
DILLON,SC,295360000

Private and Confidential
Intended for Addressee Only

12/01/17

Dear Patient:

Enclosed is your Patient Prescription record,as recently requested from CVS/Pharmacy.

If you have questions about this record,please go to www.CVS.com/privacy for further information or contact the Privacy Office at 1.800.287.2414.

10A3

R 736

PATIENT PRESCRIPTION RECORD

01/01/2017 THRU 12/01/2017

Date: 12/01/2017 Time: 2:30:41 PM

ARMACY NAME: 03843 # 03843
DRESS: 1211 HWY. 301 NORTH
Y, ST, ZIP: DILLON, SC. 29536

PATIENT KEY: [REDACTED]
PATIENT NAME: ARNETTE, JERRYIR
DRESS: 555 PEARLIE RD
Y, ST, ZIP: DILLON, SC. 295360000

TELEPHONE: [REDACTED]
BIRTHDATE: [REDACTED]
GENDER: M
RELATIONSHIP: Card Holder

PRE #	RX NUMBER	RFL	NDC NUMBER	DRUG DESCRIPTION	PRESCRIBER NAME	DATE FILLED	QUANT DISP	PATIENT PO AMT
343	1394849	000	00378013701	ALLOPURINOL 100 MG TABLET	FITZGIBBON, TIMOTHY	04/20/2017	90.00	12.00
343	1411104	000	00378013701	ALLOPURINOL 100 MG TABLET	ELMORE, STEPHEN	06/24/2017	60.00	9.00
343	1394849	001	00378013701	ALLOPURINOL 100 MG TABLET	FITZGIBBON, TIMOTHY	07/20/2017	90.00	12.00
343	1443455	000	00378013701	ALLOPURINOL 100 MG TABLET	FITZGIBBON, TIMOTHY	10/20/2017	180.00	12.00
343	1320591	001	51525029403	AZELASTINE 0.1% (137 MCG) SPRY	FITZGIBBON, TIMOTHY	06/26/2017	30.00	9.00
343	1375912	000	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	02/24/2017	60.00	15.00
343	1375912	001	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	04/03/2017	60.00	15.00
343	1375912	002	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	07/18/2017	60.00	15.00
343	1375912	003	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	08/29/2017	60.00	9.00
343	1375912	004	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	10/21/2017	60.00	9.00
343	1375912	005	00173088210	BREO ELLIPTA 200-25 MCG INH	ZEIN, MOHAMAD	11/19/2017	60.00	9.00
343	1415108	000	49708075441	BROMSITE 0.075% EYE DROPS	FRENCH, JOHN	07/07/2017	5.00	1.00
343	1345386	000	00456140530	BYSTOLIC 5 MG TABLET	FITZGIBBON, TIMOTHY	02/09/2017	30.00	18.00
343	1345386	001	00456140530	BYSTOLIC 5 MG TABLET	FITZGIBBON, TIMOTHY	04/01/2017	30.00	18.00
343	1350484	000	00378363105	CARVEDILOL 3.125 MG TABLET	FITZGIBBON, TIMOTHY	10/18/2017	180.00	15.00
343	1403218	000	68180012202	CEPHALEXIN 500 MG CAPSULE	FITZGIBBON, TIMOTHY	05/22/2017	10.00	9.00
343	1422388	000	68180012202	CEPHALEXIN 500 MG CAPSULE	FITZGIBBON, TIMOTHY	08/04/2017	40.00	9.00
343	1429624	000	65862018501	CLINDAMYCIN HCL 150 MG CAPSULE	BLEVINS, TODD	08/30/2017	28.00	9.00
343	1443657	000	65862018501	CLINDAMYCIN HCL 150 MG CAPSULE	BLEVINS, TODD	10/18/2017	28.00	9.00
343	1419904	000	00713525601	CLINDAMYCIN HCL 300 MG CAPSULE	MCKAY, SHAWN	07/26/2017	30.00	9.00
343	1381810	000	00378075110	CYCLOBENZAPRINE 10 MG TABLET	HIGHSMITH, JASON	03/09/2017	60.00	8.00
343	1423805	000	00378075110	CYCLOBENZAPRINE 10 MG TABLET	HIGHSMITH, JASON	08/10/2017	30.00	9.00
343	1381667	000	49884093547	DICLOFENAC SODIUM 1% GEL	HIGHSMITH, JASON	01/14/2017	100.00	9.00
343	1396035	000	00378020810	FUROSEMIDE 20 MG TABLET	FITZGIBBON, TIMOTHY	04/25/2017	15.00	1.00
343	1396035	001	00378020810	FUROSEMIDE 20 MG TABLET	FITZGIBBON, TIMOTHY	06/18/2017	15.00	9.00
343	1396035	002	00378020810	FUROSEMIDE 20 MG TABLET	FITZGIBBON, TIMOTHY	07/12/2017	15.00	9.00
343	1396035	003	00378020810	FUROSEMIDE 20 MG TABLET	FITZGIBBON, TIMOTHY	08/09/2017	15.00	9.00
343	1403216	000	00378020810	FUROSEMIDE 20 MG TABLET	FITZGIBBON, TIMOTHY	08/31/2017	20.00	11.99
343	1326719	005	69097081412	GABAPENTIN 300 MG CAPSULE	HIGHSMITH, JASON	04/01/2017	90.00	4.50
343	1393687	000	69097081412	GABAPENTIN 300 MG CAPSULE	FITZGIBBON, TIMOTHY	06/26/2017	90.00	22.00
343	1444723	000	69097081412	GABAPENTIN 300 MG CAPSULE	HIGHSMITH, JASON	10/23/2017	30.00	9.00
343	1444723	001	69097081412	GABAPENTIN 300 MG CAPSULE	HIGHSMITH, JASON	11/19/2017	30.00	9.00
343	1415110	000	24208058060	GENTAMICIN 0.3% EYE DROPS	FRENCH, JOHN	07/07/2017	5.00	9.00
343	1393681	000	00603389121	HYDROCODON-ACETAMINOPH 7.5-325	BLITCH, EDWIN	04/17/2017	45.00	3.00
343	1437077	000	00603389121	HYDROCODON-ACETAMINOPH 7.5-325	BLEVINS, TODD	09/26/2017	20.00	19.75
343	1429621	000	53746010901	HYDROCODON-ACETAMINOPH 5-325	BLEVINS, TODD	08/30/2017	12.00	9.00
343	1419903	000	00603388721	HYDROCODON-ACETAMINOPH 10-325	MCKAY, SHAWN	07/26/2017	30.00	9.00
343	1414492	000	43199001401	HYOSCYAMINE ER 0.375 MG TAB	CHOWDHARY, DEEPAK	07/10/2017	60.00	9.00
343	1428621	000	43199001401	HYOSCYAMINE ER 0.375 MG TAB	CHOWDHARY, DEEPAK	08/29/2017	174.00	12.00
343	1428621	000	43199001401	HYOSCYAMINE ER 0.375 MG TAB	CHOWDHARY, DEEPAK	08/29/2017	6.00	9.00
343	1454919	000	00378967130	IPRAT-ALBUT 0.5-3(2.5) MG/3 MI	ZEIN, MOHAMAD	12/01/2017	360.00	9.00
343	1403217	000	43547036009	LOSARTAN POTASSIUM 25 MG TAB	FITZGIBBON, TIMOTHY	05/22/2017	10.00	9.00
343	1403217	001	43547036009	LOSARTAN POTASSIUM 25 MG TAB	FITZGIBBON, TIMOTHY	06/18/2017	30.00	9.00
343	1403217	002	43547036009	LOSARTAN POTASSIUM 25 MG TAB	FITZGIBBON, TIMOTHY	07/23/2017	30.00	9.00
343	1419040	000	43547036109	LOSARTAN POTASSIUM 50 MG TAB	OM, ANIL	08/13/2017	90.00	12.00
343	1419040	001	43547036109	LOSARTAN POTASSIUM 50 MG TAB	OM, ANIL	11/08/2017	90.00	22.00
343	1394475	000	24208050307	LOTEMAX 0.5% OPHTHALMIC GEL	CUTRELL, DARRIN	04/19/2017	5.00	15.00
343	1394475	001	24208050307	LOTEMAX 0.5% OPHTHALMIC GEL	CUTRELL, DARRIN	05/17/2017	5.00	15.00
343	1409429	000	00071101368	LYRICA 50 MG CAPSULE	HIGHSMITH, JASON	06/15/2017	60.00	15.00
343	1409429	001	00071101368	LYRICA 50 MG CAPSULE	HIGHSMITH, JASON	07/18/2017	60.00	15.00
343	1408807	000	69097015907	MELOXICAM 15 MG TABLET	ELMORE, STEPHEN	06/13/2017	30.00	9.00
343	1408807	001	69097015907	MELOXICAM 15 MG TABLET	ELMORE, STEPHEN	07/10/2017	30.00	9.00
343	1408807	002	69097015907	MELOXICAM 15 MG TABLET	ELMORE, STEPHEN	08/07/2017	30.00	9.00
343	1408807	003	69097015907	MELOXICAM 15 MG TABLET	ELMORE, STEPHEN	08/29/2017	30.00	9.00
343	1441741	000	00713070185	MOMETASONE FUROATE 0.1% SOLN	MCKAY, SHAWN	10/30/2017	30.00	9.00
343	1350975	002	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	02/09/2017	30.00	9.00
343	1350975	003	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	03/10/2017	30.00	4.97
343	1350975	004	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	05/17/2017	30.00	9.00
343	1350975	005	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	06/12/2017	30.00	9.00
343	1350975	006	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	07/10/2017	30.00	9.00
343	1416263	000	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	08/07/2017	90.00	22.00
343	1416263	001	00093742698	MONTelukAST SOD 10 MG TABLET	ZEIN, MOHAMAD	11/09/2017	90.00	22.00
343	1396021	000	52747047570	NOREL AD TABLET	FITZGIBBON, TIMOTHY	07/13/2017	4.00	13.75
343	1396021	001	52747047570	NOREL AD TABLET	FITZGIBBON, TIMOTHY	07/13/2017	24.00	13.75

R 737

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DEC 11 2017 0334

PATIENT PRESCRIPTION RECORD

Date: 12/01/2017 Time 7:29:47 PM

01/01/2017 THRU 12/01/2017

ARMACY NAME: 03843 # 03843
ADDRESS: 1211 HWY. 301 NORTH
CY, ST, ZIP: DILLON, SC, 29536

TIENT KEY: [REDACTED]
TIENT NAME: ARNETTE, JERRYJR
ADDRESS: 555 PEARLIE RD
CY, ST, ZIP: DILLON, SC, 295360000

TELEPHONE: [REDACTED]
BIRTHDATE: [REDACTED]
GENDER: M
RELATIONSHIP: Card Holder

ORE #	RX NUMBER	RFL	NDC NUMBER	DRUG DESCRIPTION	PRESCRIBER NAME	DATE FILLED	QUANT DISP	PATIENT PD AMT
843	1394478	000	17478071310	OFLOXACIN 0.3% EYE DROPS	CUTRELL, DARRIN	04/19/2017	5.00	9.00
843	1394478	001	17478071310	OFLOXACIN 0.3% EYE DROPS	CUTRELL, DARRIN	05/17/2017	5.00	9.00
843	1381808	000	42858010201	OXYCODONE-ACETAMINOPHEN 5-325	HIGHSMITH, JASON	03/09/2017	90.00	9.00
843	1377224	000	59746028490	PANTOPRAZOLE SOD DR 40 MG TAB	FITZGIBBON, TIMOTHY	07/24/2017	90.00	19.57
843	1377224	001	59746028490	PANTOPRAZOLE SOD DR 40 MG TAB	FITZGIBBON, TIMOTHY	05/21/2017	90.00	22.00
843	1393685	000	59746028490	PANTOPRAZOLE SOD DR 40 MG TAB	FITZGIBBON, TIMOTHY	08/15/2017	90.00	22.00
843	1428601	000	59746028490	PANTOPRAZOLE SOD DR 40 MG TAB	CHOWDHARY, DEEPAK	11/05/2017	90.00	22.00
843	1403559	000	61314063715	PREDNISOLONE AC 1% EYE DROP	GRIFFIN, NEIL	05/23/2017	15.00	9.00
843	1422387	000	00143974010	PREDNISONE 5 MG TABLET	FITZGIBBON, TIMOTHY	08/04/2017	20.00	9.00
843	1375911	000	59310057922	PROAIR HFA 90 MCG INHALER	ZEIN, MOHAMAD	02/20/2017	8.50	18.00
843	1454917	000	59310057922	PROAIR HFA 90 MCG INHALER	ZEIN, MOHAMAD	12/01/2017	8.50	18.00
843	1393683	000	65162052110	PROMETHAZINE 25 MG TABLET	BLITCH, EDWIN	04/17/2017	20.00	3.17
843	1454918	000	00185037020	SYMBICORT 160-4.5 MCG INHALER	ZEIN, MOHAMAD	12/01/2017	10.20	18.00
843	1428730	000	00093005805	TRAMADOL HCL 50 MG TABLET	GOVINDAPPA, VENUGOPAL	08/28/2017	90.00	9.00
843	1428730	001	00093005805	TRAMADOL HCL 50 MG TABLET	GOVINDAPPA, VENUGOPAL	10/20/2017	90.00	9.00
843	1452892	000	00378253710	TRIAMTERENE-HCTZ 37.5-25 MG CP	MCKAY, SHAWN	11/21/2017	30.00	9.00
843	1443454	000	31722074690	VALSARTAN 80 MG TABLET	FITZGIBBON, TIMOTHY	10/20/2017	90.00	22.00
843	1364642	000	69452015120	VIT D2 1.25 MG (50,000 UNIT)	FITZGIBBON, TIMOTHY	01/13/2017	8.00	5.27
843	1393691	000	69452015120	VIT D2 1.25 MG (50,000 UNIT)	FITZGIBBON, TIMOTHY	04/17/2017	8.00	5.27
843	1425085	000	54092060601	XIIDRA 5% EYE DROPS	APPLE, NICOLE	08/15/2017	50.00	18.00

3043

TOTAL # OF PRESCRIPTIONS: 84 TOTAL PATIENT PAID AMOUNT: 1227.60

③ I ALSO HAVE A TENS Unit
AGF-3E For HOME USE
FOR NERVE PAIN
Prescribed BY DR. Timothy
FitzGIBBONS

Purchased From PALMETTO MEDICAL
Equipment
Florence, S.C. 29501
843-629-8236

④ I ALSO USE AN INVERSION TABLE AT HOME
TO REDUCE SPINAL PRESSURE

Prescribed BY
DR. JASON HISHSMITH

I purchased it AT
Athletic Sports
Florence, S.C.

R 741

RECEIVED

DEC 11 2011

0336

Case Notes

JERRY ARNETT

Claim 00FC6930

Analyst	STSSRAAB	Product	LTD
Case Manager	Carol Short	Status	Pending
Group Number	10033710		
Contract Id:	627284		

August 21, 2017

NCM file review

Carol Short

cds

The claimant is a 47 year old driver's license examiner who CW 02/13/17 due to lumbar disc and cervical disc, per APS completed by Dr. Highsmith's (neurosurgery) office on 05/11/17. The claimant is status post lumbar L4-5 microdiscectomy, performed on 05/09/16.

On 03/06/17 the claimant underwent C5-6 and C6-7 anterior cervical discectomy and arthroplasty (fusion). He has continued to follow up with neurosurgery.

The claimant has been followed by pain management with regard to his lumbar spine. He underwent lumbar facet nerve blocks bilaterally at L3-4, L4-5, and L5-S1 on 04/20/17. On 05/04/17, he underwent radiofrequency ablation (RFA) medial branch nerve at left L3-4, L4-5, L5-S1 facet joints.

The claimant was seen by the neurosurgeon (Dr. Highsmith) on 05/09/17. The claimant reported marked improvement in his radicular arm pain and was pleased with the results of his cervical surgery. However, he reported persistent low back pain at the site of his previous lumbar surgery (05/09/16). MD noted that the claimant has known disc disease at L4-5 and a significant amount of facet arthropathy. The claimant was referred to pain management for an injection.

The claimant returned to Dr. Highsmith on 06/13/17. The claimant reported decreased pain since the injection, but continued to report some numbness and tingling in the right leg. He also reported left flank pain. On exam, he had some numbness in the right shin, but otherwise had good strength and sensation, per MD. He had some left paraspinous tenderness. MD impression was that the claimant had some subsidence and facet arthropathy at L4-5. MD noted that claimant may eventually require lumbar fusion. Claimant was to start on Lyrica for pain.

07/25/17: The claimant returned to Dr. Highsmith for follow up. Claimant reported continued low back and recurrent left leg pain. MD impression was lumbar facet arthropathy at L4-5. MD recommended claimant follow up with pain management for additional treatment options. P.T. was recommended for low back strengthening.

Based on the available medical documentation, the claimant has been precluded from all work activity from the CW date through May 2017 due to status post cervical spine surgery. Since that time, through the present and beyond, he has been precluded from more than 20 pounds lifting and from more than occasional walking and standing due to lumbar condition. The claimant should avoid more than 20 pounds lifting and should avoid overhead or above the shoulder work activity due to cervical fusion.

The claimant may have some improvement over time. I recommend following up with pain management and with Dr. Highsmith in 3-4 months to assess ongoing limitations and restrictions and prognosis. Physician review is recommended at some point with regard to specific diagnoses.

Jason M. Highsmith, MD, FACS
9313 Medical Plaza Drive, Suite 305
North Charleston, SC 29406
843-553-7615 / 843-553-1008 (fax)

PATIENT: ARNETTE, JR., JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dillon Family Medicine 843-744-7336

OFFICE NOTES

DATE OF SERVICE: 07/25/2017

HISTORY OF PRESENT ILLNESS: Mr. Arnette had an anterior cervical arthroplasty from which he did well. He is still having axial low-back pain and has known subsidence at L4-5. He has had some recurrent left leg pain, as well. He has been unable to return to work given his exacerbation of pain. He is currently undergoing pain management with Dr. Ed Tavel.

PHYSICAL EXAMINATION: He has moderate mechanical back pain. He has numbness in the shins bilaterally, but, at this point, good strength.

IMPRESSION: The patient has lumbar facet arthropathy at L4-5.

PLAN: I am recommending he follow-up with Dr. Tavel for additional treatment options. He does have some disc disease at L5-S1, so he may not be a candidate for the stem cell study. Regardless, we will defer to Dr. Tavel for further management and treatment. In the interim, we will keep him out of work and recommend physical therapy for low-back strengthening.

JMH:lsd

Jason M. Highsmith, MD, FACS
9313 Medical Plaza Drive, Suite 305
North Charleston, SC 29406
843-553-7615 / 843-553-1008 (fax)

PATIENT: ARNETTE, JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dr. Timothy Fitz-Gibbon 843-774-7336

OFFICE NOTES

DATE OF SERVICE: 06/13/2017

HISTORY OF PRESENT ILLNESS: Mr. Arnette is a pleasant gentleman who had a cervical arthroplasty x2 with excellent results. He has undergone lumbar decompression at L4-5 previously, but has had some facet arthropathy and subsidence and has had some recurrent low-back and right leg pain. He has had decreased pain since the injection, but some persistent numbness and tingling in the right leg. He, also, reports some left flank pain. He is inquiring about medications and treatment options.

PHYSICAL EXAMINATION: He has some numbness in the right shin, but otherwise, good strength and sensation. He has left paraspinous tenderness.

IMPRESSION: The patient has had some subsidence and facet arthropathy at L4-5. He may eventually require a gross total discectomy and fusion. We will try to exhaust all nonoperative measures.

PLAN: I would like to start him on Lyrica in place of the Neurontin which was too sedating for him, and we will see how he responds. We will get a plain x-ray of the lumbar spine and plan accordingly.

JMH:lsl

ADDENDUM: Plain films of the lumbar spine show normal bony alignment. There is some loss of disc height at L4-5 and L5-S1.

JASON M. HIGHSMITH, M.D.
NEUROLOGICAL SURGERY

9313 Medical Plaza Drive
Suite 305
Charleston, SC 29406

phone 843.553.7615
fax 843.553.1008

March 28, 2017

Dr. Fitz-Gibbon
Dillon Family Medicine
603 North Sixth Avenue
Dillon, SC 29536

Re: ARNETTE, JERRY
DOB: [REDACTED]

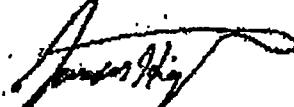
Dear Dr. Fitz-Gibbon:

I am sorry for not including you on my previous correspondence regarding our mutual patient, Mr. Jerry Arnette.

As you will see from the attached note, he is doing well in terms of his recent neck disc replacement x2, but he is having some recurrent leg pain, likely from subsidence of the large disc herniation.

If I can be of further assistance in his care, please let me know.

Sincerely,


Jason M. Highsmith, M.D., F.A.C.S.

JMH:lsd

Enclosure

R 751

0340

Atlantic Coast Pain Specialists Inc
1500 Main Street
Conway SC 295263569
Phone: 843-438-8470 Fax: 843-438-8480

Visit Note

Provider: Richard Kline, MD
Encounter Date: January 02, 2017
Patient: Arnette, Jerry M (1212)
Sex: Male **DOB:** [REDACTED] **Age:** 47 year 4 month
Race: White
Address: 555 Pearlie Road, Dillon SC 29536 **Pref. Phone(C):** [REDACTED]
Insurance(s):
BLUE CROSS BLUE SHIELD STATE (PP)

Referred By: Richard Kline

Chief Complaints:

Mr. Arnette, Jerry M, here for a follow up appointment.

History of Present Illness:

LUMBAR SPINE: Patient rates the pain level as 6/10. Patient states that he obtained greater than 30% reduction of his low back and leg pain after initial injection. He is still describing what he refers to as "cramping" patient states that the Neurontin does give him relief but it does make him sedated. We will try patient on a sample of extended release gabapentin. Hopefully the side effect profile will not be as bad.:

Current Medication:

- 1 Zanaflex 4 Mg Tablet SIG: Take 1 twice daily as needed
- 2 Gabapentin 300 Mg Capsule (Other MD)
- 3 Pantoprazole Sod Dr 40 Mg Tab (Other MD)
- 4 Vitamin D3 400 Unit Tab Chew (Other MD)

ROS:

CONSTITUTIONAL: (+) fatigue.

HEENT: HEENT: (-) headaches, (-) head injury or deformity, (-) visual changes, (-) eye pain, (-) double or blurred vision, (-) glaucoma, (-) cataracts, (-) hearing changes, (-) tinnitus, (-) vertigo, (-) dizziness, (-) earache, (-) use of hearing aids, (-) frequent colds, (-) nosebleeds, (-) runny nose, (-) toothache, (-) hoarseness, (-) dentures use.

RESPIRATORY: Respiratory: (-) cough, (-) hemoptysis, (-) shortness of breath, (-) wheezing, (-) nocturnal choking or gasping, (-) TB exposure.

CARDIAC: (+) chest pain.

GASTROINTESTINAL: (+) heartburn.

Patient: Arnette, Jerry M DOB: [REDACTED] Visit: 01/02/2017 Page: 1

R 767

0341

URINARY: Urinary: (-) dysuria, (-) frequency, (-) urgency, (-) hesitancy, (-) hematuria, (-) urinary incontinence, (-) flank pain, (-) change in urinary habits.

MUSCULOSKELETAL: (+) muscle cramps, (+) back pain, (+) joint pain, (+) muscle pain, (+) neck pain, (+) stiffness.

NEUROLOGICAL: (+) numbness, (+) tingling.

INTEGUMENTARY: Skin: (-) rashes, (-) lumps, (-) itching, (-) dryness, (-) acne, (-) discoloration, (-) recurrent skin infections, (-) changes in hair, nails or moles, (-) ulcerations, (-) hypersensitivity.

PSYCHIATRIC: Psychiatric: (-) anxiety, (-) depression, (-) sleep disturbance, (-) irritability, (-) mood swings, (-) suicidal thoughts or ideations.

ENDOCRINE: Endocrine: (-) heat or cold intolerance, (-) excessive sweating, (-) diabetes, (-) excessive urination.

GENITOURINARY:

HEMATOLOGIC/LYMPHATIC: Peripheral Vascular: (-) intermittent claudication, (-) cramps, (-) varicose veins, (-) thrombophlebitis.

ALLERGIC/IMMUNOLOGIC: No latex allergies or recurrent infections.

OTHER:

Medical History:

No history of malignancy. No history of skin diseases. No history of eye, ear, nose or throat abnormalities. No history of respiratory diseases. No history of cardiac diseases. No history of gastrointestinal diseases. No history of genitourinary diseases. No history of musculoskeletal diseases. No history of neurologic diseases. No history of psychiatric disorders. No history of hematologic or lymphatic diseases. No history of endocrine disorders. No history of allergic or immunologic diseases. No history of infectious diseases. No history of rheumatologic disorders. No history of trauma or toxin ingestion.

Surgical History:

Prior surgeries include.

Family History:

History: rheumatoid arthritis.

Patient's father's medical history is unremarkable.

Patient's mother's medical history is unremarkable.

Patient's maternal grandfather's medical history is unremarkable.

Patient's maternal grandmother's medical history is unremarkable.

Patient's paternal grandfather's medical history is unremarkable.

Patient's paternal grandmother's medical history is unremarkable.

Patient's stepfather's medical history is unremarkable.

Patient's stepmother's medical history is unremarkable.

Social History:

Marital Status: Single.

He lives alone.

Non alcoholic beverage drinker.
He denies recreational drug use.
No diet restrictions.
He does not drink coffee, tea, soda or any other caffeinated drinks and beverages.
Currently unemployed.
The patient does not do any form of exercise.
No interest in hobbies or other activities.
Capable of performing activities of daily living (ADL).

Allergy:

Latex, Natural Rubber, tapentadol

Oswestry Index:

PQRS - Multiple Chronic Conditions 2016 - Patients 50 and older: Assessment of Presence or Absence of Urinary Incontinence in Women Aged 65 Years and Older: Presence or absence of urinary incontinence not assessed, reason not otherwise specified.

Influenza Immunization: Influenza immunization was not administered, reason not given.

Pneumonia Vaccination Status for Older Adults 50+: Pneumococcal vaccine was not administered or previously received, reason not otherwise specified.

Vital Signs:

Temperature: 97.8 F, BP: 167/92, Pulse: 59, Respiration: 16

Physical Examination:

Unchanged: The patient's examination is unchanged from the previous visit.

Diagnosis/Decision Making:

M54.16 Radiculopathy, lumbar region

Treatment Plan:

Patient will follow up with pain management in one week for either repeat medial branch nerve blocks or repeat epidural steroid injection, depending on the extent of his radiating leg pain.

This visit note has been electronically signed off by Richard Kline, MD on 01/05/2017 at 03:59 PM.

Jason M. Highsmith, M.D.

PATIENT: ARNETTE, JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dr. Fitz-Gibbon, Dillon Family Medicine (774-7336)

OFFICE NOTES

DATE OF SERVICE: 03/28/2017

HISTORY OF PRESENT ILLNESS: Mr. Arnette is a pleasant gentleman who underwent a two-level arthroplasty on 03/06/2017. The patient reports improvement in his radicular symptoms. He is very pleased in that regard. He has mild swallowing trouble, but is overall doing well with no significant discomfort in the neck or arm.

He has noticed increasing right leg pain where he has had a previous posterior decompression and is inquiring about additional treatment options. He had an L4-5 decompression last year. He gets some improvement with nonsteroidal anti-inflammatories, but is unable to tolerate them from a GI standpoint.

PHYSICAL EXAMINATION: His wound is well-healed. He has good range-of-motion of the cervical spine. Normal strength and sensation. In regard to his low-back, he still has some dysesthetic right L5 numbness.

IMPRESSION: The patient is doing well from his neck. In the low-back, he has had a microdiscectomy which has demonstrated some subsidence. We discussed treatment options.

PLAN: I am recommending he try turmeric at 500 mg up to three times a day. If his symptoms persist, he is a good candidate for an L4-5 TLIF, but I would like to exhaust noninvasive measures with activity modification. I do not recommend that he return to his work as a CDL examiner given the amount of prolonged standing, sitting, and bending that requires.

JMH:lsd

JASON M. HIGHSMITH, M.D.
NEUROLOGICAL SURGERY

9313 Medical Plaza Drive
Suite 305
Charleston, SC 29406

phone 843.553.7615
fax 843.553.1008

March 28, 2017

Dr. Fitz-Gibbon
Dillon Family Medicine
603 North Sixth Avenue
Dillon, SC 29536

Re: ARNETTE, JERRY
DOB: [REDACTED]

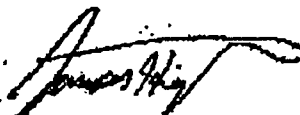
Dear Dr. Fitz-Gibbon:

I am sorry for not including you on my previous correspondence regarding our mutual patient, Mr. Jerry Arnette.

As you will see from the attached note, he is doing well in terms of his recent neck disc replacement x2, but he is having some recurrent leg pain, likely from subsidence of the large disc herniation.

If I can be of further assistance in his care, please let me know.

Sincerely,



Jason M. Highsmith, M.D., F.A.C.S.

JMH:lsd

Enclosure

Jason M. Highsmith, M.D.

PATIENT: ARNETTE, JERRY

DOB: [REDACTED]

PRIMARY CARE/REFERRING PHYSICIAN(S):

OFFICE NOTES

DATE OF SERVICE: 05/31/2016

HISTORY OF PRESENT ILLNESS: Mr. Arnette underwent a microdiscectomy for a large disc herniation with significant posterior disruption. When I last saw him, he was doing fairly well, but was having some residual neuropathic pain. His symptoms have persisted and he has developed worsening right L5 numbness, as well as ankle stiffness and right groin pain. He, also, had a pinch in his low-back when getting off a toilet and feels like he is slowly declining.

PHYSICAL EXAMINATION: His wounds are well-healed. He has increased numbness in the right L5 dermatomal distribution, but improved dorsiflexion strength at 4+/5.

IMPRESSION: The patient's numbness has increased, but his weakness has improved. He is three weeks out from surgery. I reassured him that this is probably nerve root irritation.

PLAN: I have given him a prescription for Neurontin, as he is already on diclofenac. I will, also, get plain films to evaluate his construct and plan accordingly. I did remind him that he may need a fusion, but, at this point, he is doing well. We will get the plain x-ray and plan accordingly.

JMH:lsd

ADDENDUM: Plain films of the lumbar spine show multilevel loss of disc height, particularly at L4-5 and L5-S1. There is no gross bony mal-alignment.

*He 6/21 will consider fusion
talk @ that time*

Jason M. Highsmith, M.D.

PATIENT: ARNETTE, JERRY

DOB: [REDACTED]

REFERRING PHYSICIAN(S):

PRIMARY CARE PHYSICIAN: Dr. Timothy Fitz-Gibbon 843-774-7331

OFFICE NOTES

DATE OF SERVICE: 04/26/2016

HISTORY OF PRESENT ILLNESS: Mr. Arnette returns today in follow-up for his low-back and right leg pain. His radiographic findings are quite impressive, but he has now developed worsening bilateral pain with tingling and paresthesias in the L5 dermatome and L4 dermatome, as well. He has some low-back pain, but now has worsening dysesthesias and intermittent foot drop, particularly with prolonged ambulation.

PHYSICAL EXAMINATION: He has dorsiflexion weakness at 4-/5 on the right, as well as right L5 numbness. His right ankle jerk is, also, diminished.

IMPRESSION: The patient has a large L4-5 disc herniation with significant posterior disruption. We discussed treatment options, including continued physical therapy, chiropractic treatment, as well as lumbar decompression. I think he is a good candidate for a lumbar microdiscectomy. He understands there is a greater than 20% chance he will eventually need fusion at this level given the significant posterior disruption of the disc space; however, we would like to proceed with the least invasive measure.

PLAN: We will plan for an L4-5 discectomy in the near future. The risks, benefits, and alternatives were discussed with the patient.

JMH:lsl

Charleston Brain & Spine
9313 Medical Plaza Drive, Suite 305
North Charleston, SC-29451

Primary Physician: Highsmith, Jason

Patient: Arnette, Jerry DOB: [REDACTED] Sex: Male Tel: [REDACTED]

Report Name: OPERATIVE REPORT

Accession ID:

Admit Date:

TRIDENT MEDICAL CENTER
9330 MEDICAL PLAZA DRIVE
CHARLESTON, SC 29406

NAME: ARNETTE, JERRY MONROE JR ROOM #: D.623-A

UNIT#: D000714103 Acc #: D00054174397

Adm Date: 03/06/17

Dictated By: Highsmith, Jason M MD

Report Name: OPERATIVE REPORT

Date of Operation: 03/06/2017

PREOPERATIVE DIAGNOSES:

1. Cervical disk herniation at C5-6.
2. Cervical disk herniation at C6-7.

PROCEDURES PERFORMED:

1. Anterior cervical disectomy and arthroplasty (22856) x2.
2. Intraoperative fluoroscopy with interpretation.
3. Intraoperative microscope use.

SURGEON:

Jason Highsmith, MD

ASSISTANT:

None.

INDICATION FOR PROCEDURE:

The patient is a gentleman with history of neck and radicular arm pain, felt to be a candidate for surgical decompression having failed less invasive measures. He understands risks, benefits and alternatives of disk replacement. Specific risks discussed including, but not limited to bleeding, infection, neurologic injury, spinal fluid leakage, numbness, weakness, paralysis, hoarseness, swallowing difficulty, worsening or no improvement of symptoms, need for further revision as well as suboptimal pain relief and risks of anesthesia.

PROCEDURE IN DETAIL:

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where he underwent the successful induction of general endotracheal anesthesia. The neck was mildly extended, prepped and draped in standard sterile fashion. A 10-blade scalpel was used to make a transverse incision at the lower cervical skin fold. We dissected this plane medial to the sternocleidomastoid and carotid sheath down to prevertebral fascia and localized at C5-6. We placed self-retaining pins and Caspar distractor and carried out discectomy. We found significant posterior herniation with subligamentous disk, which we removed and scraped the endplates clean and sized a 14 x 16 mm Globus Secure C spacer with 6 mm in height. We verified the proper position with AP and lateral fluoroscopy and then used a _____ bit to drill keel cuts. We cleaned the keel cuts and again inspected the epidural space under microscope visualization. We copiously irrigated the wound with bacitracin solution we then placed a 6 mm graft without difficulty.

We repeated the procedure at C6-7 with identical findings. Both grafts had

Patient Name: ARNETTE, JERRY MONROE JR Account #: [REDACTED]

excellent fixation in the surrounding anatomy. We then sealed the anterior edges with bone wax. We inspected the soft tissues and found them to be free of injury and then closed the wound in anatomic layers followed by application of sterile dressing. All sponge and needle counts were correct at the end of the case.

ESTIMATED BLOOD LOSS:
Less than 50 mL

OPERATIVE COMPLICATIONS:
None apparent.

Dictation ID / Confirmation #: 3296747 / 3009443
DD: 03/06/2017 16:51 / DT: 03/06/2017 22:40
Authenticated by JASON M HIGHSMITH, MD On 03/07/2017 06:36:30 AM

Electronically Signed by Jason M Highsmith, MD on 03/07/17 at 0736

Charleston Brain & Spine
9313 Medical Plaza Drive, Suite 305
North Charleston, SC-29451

Primary Physician: Highsmith, Jason

Patient: Arnette, Jerry .DOB: [REDACTED]

Sex: Male **Tel:** [REDACTED]

Report Name: OPERATIVE REPORT

Accession ID:

Admit Date:

REPORT

TRIDENT MEDICAL CENTER
9330 MEDICAL PLAZA DRIVE
CHARLESTON, SC 29406

NAME: ARNETTE, JERRY MONROE JR

UNIT#: D000714103

Adm Date: 05/09/16

Dictated By: Highsmith, Jason M MD

ROOM #: D.602-A

Acc #: D00051597052

Report Name: OPERATIVE REPORT

Date of Operation: 05/09/2016

PREOPERATIVE DIAGNOSIS:

Lumbar disk herniation at L4-L5.

POSTOPERATIVE DIAGNOSIS:

Lumbar disk herniation at L4-L5.

PROCEDURE PERFORMED:

1. Lumbar L4-5 microdiscectomy.
2. Intraoperative fluoroscopy with interpretation.
3. Intraoperative microscope use.

INDICATION FOR PROCEDURE:

The patient is a gentleman with history of low back and radicular right leg with worsening foot drop. He has a massive L4-5 disk herniation. He is felt to be a good candidate for surgical decompression having failed less invasive measures and given his neurologic decline. He understands the risks, benefits and alternatives of surgery. Specific risks discussed include but not limited to bleeding, infection, neurologic injury, spinal fluid leakage, worsening or no improvement of pain, failure to relieve symptoms, need for revision, disk recurrence with a high likelihood of needing fusion because of significant posterior disruption as well as risks of anesthesia.

PROCEDURE IN DETAIL:

After obtaining informed consent, the patient was taken to the operating room where he underwent the successful induction of general endotracheal anesthesia. He was turned prone on the Wilson frame. All pressure points were padded. The back was prepped and draped in standard sterile fashion. A 10-blade scalpel was used to open a vertical incision at the L5 interspace. A subperiosteal

dissection was carried out of the spinous process and lamina. After verifying the proper level of intraoperative fluoroscopy, decompressive hemilaminotomy was carried out at L4-5. We resected the underlying ligamentum flavum and found a broad-based lateral herniation in the axilla of the nerve root as well as a massive central herniation completely indenting the dural space ventrally. We encountered significant epidural plexus running the entire length of the thecal sac under and along the nerve root as well as the thecal sac. This was cauterized multiple times. We encountered significant epidural bleeding that was profuse and steady throughout the case. There was no venous injury, but we did lose a significant amount of blood. The patient remained hemodynamically stable. We resected the disk from under the thecal sac with pituitary rongeurs after incising the disk space and retrieving it from within the disk space as well as resecting the subligamentous carefully. After ensuring generous

Patient Name: ARNETTE, JERRY MONROE JR

Account #: [REDACTED]

decompression of the traversing and exiting nerve root as well as the thecal sac, we copiously irrigated the wound with bacitracin solution. We used Avitene to back off some of the bleeders. After ensuring adequate hemostasis, we closed the wound in anatomic layers followed by application of sterile dressing. All sponge and needle counts were correct at the end of the case.

ESTIMATED BLOOD LOSS:

800 mL minus 150 returned by Cell Saver.

OPERATIVE COMPLICATIONS:

None apparent.

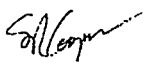
Dictation ID / Confirmation #: 2638896 / 2395655

DD: 05/09/2016 19:25 / DT: 05/09/2016 23:23

Authenticated by JASON M HIGHSMITH, MD On 05/10/2016 06:36:43 AM

Electronically Signed by Jason M Highsmith, MD on 05/10/16 at 0737

**Transferable Skills Assessment/
Any Occupation Review**

Prepared by: Steve Cooper, MS, CRC 
Vocational Case Manager

Referred by: Simi Hedberg, Disability Benefits Analyst

Claimant Name: Jerry Arnette
Claim Number: FC6930

Date of Referral: 4/8/20

Date Completed: 4/9/20

REASON FOR REFERRAL:

To assess claimant's ability to perform any occupation given documented functional capacity, work history, education, training, experience, transferable skills and labor market analysis.

ASSESSMENT FACTORS:

Documents reviewed include, but are not limited to the following:

- Job Description
- Education-Training-Experience (ETE) form
- Job Application
- Employee Statement (EES)
- Other file documents or internet research that provides information about the claimant's job skills.

Education:

Formal Education Level: BS, Sociology, 1992

Military: None

Work History:

1. Job Title: CDL License Examiner
DOT Title: LICENSE CLERK
DOT #: 205.367-034
SOC: 43-4031 - Court, Municipal, and License Clerks
Employer: State of South Carolina (DMV)
Date: 10/14 to 8/17
Strength: Light per DOT.
SVP: 3

Duties per DOT: Issues licenses or permits to qualified applicants: Questions applicant to obtain information, such as name, address, and age, and records data on prescribed forms. Evaluates information obtained to determine applicant qualification for licensure. Collects prescribed fee. Issues driver, automobile, marriage, or other license. May conduct oral, visual, written, or performance test to determine applicant qualifications.

Duties per claimant statements: "Testing applicants on commercial vehicles for licensing. I had to lift over 50 lbs & basic computer entry."

2. Job Title: Realtor
DOT Title: SALES AGENT, REAL ESTATE
DOT #: 250.357-018
SOC: 41-9022 - Real Estate Sales Agents
Employer: Self Employed
Date: 10/06 to 3/12
Strength: Light per DOT.
SVP: 5

Duties per DOT: Rents, buys, and sells property for clients on commission basis: Studies property listings to become familiar with properties for sale. Reviews trade journals and attends staff and association meetings to keep informed of marketing conditions, property values, and legislation which would affect real estate industry. Interviews prospective clients to solicit listings. Accompanies prospects to property sites, quotes purchase price, describes features, and discusses conditions of sale or terms of lease. Draws up real estate contracts, such as deeds, leases, and mortgages, and negotiates loans on property. Must have license issued by state. May hold broker's license and be designated Real-Estate Broker (real estate). May assist buyer and seller in obtaining pertinent information or services, such as finance, maintenance, repair, or obtaining an appraisal. May obtain pictures and measurements of rooms, doors, windows, or any other specified areas for inclusion in

newspaper advertisement and real estate booklets listing description of property. May inspect property to determine if repairs are needed and notify owner. May conduct seminars and training sessions for sales agents to improve sales techniques. May prepare closing statements, oversee signing of real estate documents, disburse funds, and coordinate closing activities.

Duties per claimant statements: "Did basic computer searches for properties, showed clients properties, and listed and sold properties."

Other Reported Work: On his ETE form, Mr. Arnette also reports the following work history:

- Taking telephone reservations for vacation rental properties, entering data into the computer, and performing light maintenance on the properties. (3/12 to 9/14).
- Internship as an insurance adjuster. (~4 months).
- Owned a small used car lot. (3/93 to 12/10)
- Sold mobile homes part time. (2/96 to 12/12)

These past jobs would have provided no additional work skills beyond those demonstrated in the positions detailed above.

Self-Reported Skills: On his ETE form, the claimant indicated that he has skills in the following areas:

Computer Skills/Experience:

- Using a computer for Word Processing, email, and Internet searches
- Database (scheduling reservations)
- Use smart phone apps, text, or email

General Experience:

- Assisting customers in-person or telephonically
- Typing/Keyboarding or data entry
- Selling products or services
- Filing, classifying or organizing
- Composing letters or reports
- Tabulating/composing bills or invoices
- Record-keeping

It should be noted that, in his ETE form, Mr. Arnette tends to downplay his computer skills, stating: "Very basic computer skills, mostly searches. Not skilled at all with a computer. Basic entry skills." However, the evidence suggests that he may be overly modest in this regard. He was retained for nearly 3 years as a License Examiner; for over 2 years as a reservations clerk; and as a Realtor, he survived for 5 ½ years between 2006 and 2012 - arguably the worst real estate market since the Great Depression. The fact that

he was relatively successful in these positions suggests that his employers and customers found no irredeemable fault with his ability to use a computer.

Self-Reported Skills: On his job application signed 4/23/15, claimant reported the following specific skills: Typing – 35 [wpm]; Data Entry – 220 [kpm].

Labor Market: Per file documents, claimant lives in Dillon, SC, which is about 67 miles northwest of Myrtle Beach, SC. According to the analyst's referral memo, the National economy is to be considered. This process involves analyzing specific labor markets within the local, state and/or national wage data relative to the most current available Occupational Employment Statistics as reported by the US Bureau of Labor. Therefore, wage and employment data will be provided for specific Metropolitan Statistical Areas (MSA) for each alternate occupation identified in this report, and will be supplemented with national data as needed. However, local and/or regional labor markets are given first consideration and are cited whenever they meet all criteria.

Wage Consideration: According to the analyst's memo, an acceptable alternative wage should be approximately \$1,677.07849 per month, which would be approximately \$9.69 per hour on a full time basis. Wage and employment data are from the Bureau of Labor Statistics for May 2018, and/or other sources as cited.

Diagnosis and Functional Capacity: The referral memo cites the following non-limited diagnoses: "lumbar radiculopathy."

Functional capacity is cited as follows: "Mr. Arnette would have limitations and restrictions that continue to impair him from performing more than occasional standing and walking, in maximum intervals of 15 minutes at a time, up to 1 hour total each per day."

Referral memo further directs me to Dr. Rojhani's memo dated 2/21/20, and the addendum dated 3/9/20. In my review of those documents, I noted no additional or different L&Rs than those stated in the referral memo.

Strength Factors: Based on the claimant's documented functional capacity, strength factors up through and including Sedentary work have been considered together with the stated L&Rs as part of the transferable skills assessment. Please see the attached document that provides a written description of each of the strength factors.

TRANSFERABLE SKILLS ASSESSMENT:

Based on the above factors, an analysis of transferable skills was completed relative to the change in the definition of disability. This analysis was performed using a variety of tools and resources such as OASYSⁱ, Dictionary of Occupational Titlesⁱⁱ, the Occupational Outlook Handbook (OOH)ⁱⁱⁱ, Occupation Information Network (O*Net)^{iv}, SkillTRAN/Job Browser Pro^v, SkillTRAN/Job Browser Pro's DOT Estimator tool^{vi}, and a careful review of the vocational documentation in the claimant's file.

Occupational wage and employment information is classified by the Bureau of Labor Statistics using Standard Occupational Classification, or SOC codes. Occupational duties, strength requirements, and specific vocational preparation time, on the other hand, are classified by DOT codes. SkillTRAN/Job Browser Pro and/or the *O*NET Online* Crosswalk, a publication of the U.S. Department of Labor, was utilized to ensure that the DOT corresponds correctly with the SOC for occupations researched.

The occupations listed below appropriately match the claimant's functional capacity, education, training and experience. They also meet the wage consideration as stated above.

OCCUPATIONAL ALTERNATIVES:

1. **Job Title:** REAL-ESTATE CLERK

DOT: 219.362-046

SOC: 43-9061 - Office Clerks, General

Strength: Sedentary per DOT. This occupation requires no more than brief, occasional standing and walking, and instances of standing/walking would not exceed 15 minutes at a time or be more than 1 hour total each per day.

Occupational Duties: Maintains records concerned with rental, sale, and management of real estate, performing any combination of following duties: Types copies of listings of real estate rentals and sales for distribution to trade publications, and for use as reference data by other departments. Computes interest owed, penalty payment, amount of principal, and taxes due on mortgage loans, using calculating machine. Holds in escrow collateral posted to ensure fulfillment of contracts in transferring real estate and property titles. Checks due notices on taxes and renewal dates of insurance and mortgage loans to take follow-up action. Sends out rent notices to tenants. Writes checks in payment of bills due, keeps record of disbursements, and examines cancelled returned checks for endorsement. Secures estimates from contractors for building repairs. May compile list of prospects from leads in newspapers and trade periodicals to locate prospective purchasers of real estate. May open, sort, and distribute mail. May submit photographs and descriptions of property to newspaper for publication. May maintain and balance bank accounts for sales transactions and operating expenses. May maintain log of sales and commissions received by SALES AGENT, REAL ESTATE (real estate) 250.357-018. May scan records and files to identify dates requiring administrative action, such as insurance premium due dates, tax due notices, and lease expiration dates. May compose and prepare routine correspondence, rental notices, letters, and material for advertisement.

Qualifications: According to the DOT, this occupation has a SVP of 5, requiring from 6 months to one year of experience and training for average job performance. On the job training is usually provided to individuals with basic clerical skills. In some real estate companies this position is called a Transaction

Coordinator and some employers may encourage new hires to also obtain a Realtor's License after hire in order to become familiar with jurisdictional rules and other standards required of the agents they support. However, a license is not actually required in order to work in this occupation. Based on his education, stated skills, and over 5 years of work experience in Real Estate and property management, the claimant is familiar with all aspects of the industry and would be able to quickly learn the specifics of how transactions are handled in any employing agency. This would be qualifying experience.

Wages and Occupational Outlook: Real Estate Clerk is one of 72 DOT occupations grouped under SOC 43-9061 - Office Clerks, General. The table below shows SOC group wage and employment data for selected MSAs in claimant's region. It also shows estimated employment for this specific DOT occupation using SkillTRAN's DOT estimator tool projections which are based on 2018 BLS/OES data.

SOC: 43-9061 - Office Clerks, General			Est. Employment		Reported Wages BLS 2018	
			SOC	DOT ^{vii}	10th ^{viii}	25th ^{viii}
		Mi.				
NC	Charlotte-Concord-Gastonia, NC-SC	123	20,810	330	9.07	12.01
NC	Durham-Chapel Hill, NC	145	4,760	75	9.47	12.78
NC	Greensboro-High Point, NC	139	6,770	107	8.84	11.10
NC	Raleigh, NC	121	12,110	192	9.06	11.96
SC	Columbia, SC	108	5,810	92	8.59	10.08
Total Estimated DOT Employment:				796		

In my opinion, based on the claimant's qualifications and experience as well as the reported wage data, it is reasonable to conclude that the claimant could access this occupation at or above the suitable wage of \$9.69 per hour within 12 months of employment.

2. **Job Title:** CUSTOMER SERVICE REPRESENTATIVE

DOT: 239.362-014

SOC: 43-4051 – Customer Service Representatives

Strength: Sedentary per DOT. This occupation requires no more than brief, occasional standing and walking, and instances of standing/walking would not exceed 15 minutes at a time or be more than 1 hour total each per day.

Occupational Duties: Interviews applicants and records interview information into computer for water, gas, electric, telephone, or cable television system service; Talks with customers by phone or in person and receives orders for installation, turn-on, discontinuance, or change in service. Fills out contract forms, determines charges for service requested, collects deposits, prepares change of address records, and issues discontinuance orders, using computer. May

solicit sale of new or additional services. May adjust complaints concerning billing or service rendered, referring complaints of service failures, such as low voltage or low pressure, to designated departments for investigation. May visit customers at their place of residence to investigate conditions preventing completion of service-connection orders and to obtain contract and deposit when service is being used without contract. May discuss cable television equipment operation with customer over telephone to explain equipment usage and to troubleshoot equipment problems.

Qualifications: According to the DOT, this occupation has a SVP of 5, requiring over 6 months up to 1 year (inclusive) of experience and training for average job performance. A high school diploma or its equivalent is the most common educational requirement but many CSRs have higher degrees as well. New hires with basic computer skills typically receive several weeks of training in the employer's specific processes and protocols. Based on his stated skills and work experience as a License Examiner, Realtor, and reservation clerk, the claimant has significant experience with computer applications in the workplace. He has experience problem-solving and meeting customer needs. This would be qualifying experience.

Wages and Occupational Outlook: Customer Service Representative is one of 8 DOT occupations grouped under SOC 43-4051 - Customer Service Representatives. The table below shows SOC group wage and employment data for selected MSAs in claimant's region. It also shows estimated employment for this specific DOT occupation using SkillTRAN's DOT estimator tool projections which are based on 2018 BLS/OES data.

SOC: 43-4051 - Customer Service Representatives			Est. Employment		Reported Wages BLS 2018	
			SOC	DOT ^{vii}	10th ^{viii}	25th ^{viii}
NC	Charlotte-Concord-Gastonia, NC-SC	123	31,390	403	10.89	13.56
NC	Durham-Chapel Hill, NC	145	6,230	80	10.84	14.10
NC	Greensboro-High Point, NC	139	9,080	117	10.63	13.46
NC	Raleigh, NC	121	15,560	200	10.13	11.75
SC	Columbia, SC	108	12,340	158	10.32	12.52
Total Estimated DOT Employment:				958		

In my opinion, based on the claimant's qualifications and experience as well as the reported wage data, it is reasonable to conclude that the claimant could access this occupation at or above the suitable wage of \$9.69 per hour within 12 months of employment.

3. **Job Title:** RECEPTIONIST
DOT: 237.367-038
SOC: 43-4171, Receptionists and Information Clerks

Strength: Sedentary per DOT. This occupation requires no more than brief, occasional standing and walking, and instances of standing/walking would not exceed 15 minutes at a time or be more than 1 hour total each per day.

Occupational Duties: Receives callers at establishment, determines nature of business, and directs callers to destination; Obtains caller's name and arranges for appointment with person called upon. Directs caller to destination and records name, time of call, nature of business, and person called upon. May operate PBX telephone console to receive incoming messages. May type memos, correspondence, reports, and other documents. May work in office of medical practitioner or in other health care facility and be designated Outpatient Receptionist (medical ser.) or Receptionist, Doctor's Office (medical ser.). May issue visitor's pass when required. May make future appointments and answer inquiries [INFORMATION CLERK (clerical) 237.367-022]. May perform variety of clerical duties [ADMINISTRATIVE CLERK (clerical) 219.362-010] and other duties pertinent to type of establishment. May collect and distribute mail and messages.

Qualifications: According to the DOT, this occupation has a SVP of 4, requiring over 3 months up to 6 months (inclusive) of experience and training for average job performance. A high school diploma or its equivalent is the most common educational requirement. Based on his stated skills and work experience as a License Examiner, Realtor, and reservation clerk, the claimant has significant experience with computer applications in the workplace. He has experience working with the public and presenting a positive first impression. This would be qualifying experience.

Wages and Occupational Outlook: Receptionist is one of 14 DOT occupations grouped under SOC 43-4171 - Receptionists and Information Clerks. The table below shows SOC group wage and employment data for selected MSAs in claimant's region. It also shows estimated employment for this specific DOT occupation using SkillTRAN's DOT estimator tool projections which are based on 2018 BLS/OES data.

SOC: 43-4171 - Receptionists and Information Clerks			Est. Employment		Reported Wages BLS 2018	
			SOC	DOT ^{vii}	10th ^{viii}	25th ^{viii}
	Mi.					
NC	Charlotte-Concord-Gastonia, NC-SC	123	8,790	404	8.69	10.80
NC	Durham-Chapel Hill, NC	145	1,980	91	9.83	11.83
NC	Greensboro-High Point, NC	139	2,570	118	9.19	11.13
NC	Raleigh, NC	121	5,090	234	9.70	11.44
SC	Columbia, SC	108	1,750	80	8.49	9.97
Total Estimated DOT Employment:				927		

In my opinion, based on the claimant's qualifications and experience as well as the reported wage data, it is reasonable to conclude that the claimant could access this occupation at or above the suitable wage of \$9.69 per hour within 12 months of employment.

CONCLUSION:

Based on the above analysis, the following occupations have been identified as meeting the above assessment criteria relative to the 'any occupation' definition of disability.

1. Real Estate Clerk – 796
2. Customer Service Representative – 958
3. Receptionist – 927

In aggregate, these occupations represent estimated employment of 2,681 positions among the limited sample of MSAs in claimant's region. These occupations exist in the applicable labor market, they are appropriate to the claimant's residual functional capacity as stated in the referral memo, and they are consistent with the claimant's transferable skills to the extent required by the common hiring practices of each occupation. They also meet or reasonably approach the wage consideration as noted above. When identifying these alternative occupations, the claimant's age, education, training, station in life, work experience and earnings history were considered.

The occupations listed above are not intended to be an exhaustive list of every possible occupation the claimant is capable of performing. Please refer back to a Vocational Case Manager as needed.

SRC/sc

I, Steven R. Cooper, am a vocational case manager. I am an employee of The Standard and I am paid a salary to review disability claim files and render an opinion about the claimant's ability to perform work based on the claimant's documented functional capacity, work history, education, training, experience, transferrable skills and labor market information. I am not responsible for deciding whether a claimant is entitled to disability insurance benefits. My role is to provide objective vocational opinions to The Standard's disability claims analysts.

I do not receive any additional compensation in the form of bonuses or incentive pay based on whether my opinions support or do not support a claimant's ability to perform work within the provided criteria. My compensation does not depend upon the outcome of my reviews, the substance of my professional opinions, or any factor other than my ability to provide a well-reasoned, professional vocational opinion.

The Standard has not expressed to me any requirements or expectations regarding the ultimate conclusions or opinions I provide other than that I provide a well-reasoned, professional opinion based on a thorough review of all relevant and available information. I do not believe that either my compensation or my continued professional relationship with The Standard is contingent in any way on the ultimate conclusions or opinions that I provide.

ⁱ OASYS is a job-matching software program that accesses the Dictionary of Occupational Titles to analyze a worker's skills, creates job profiles, identifies career interests, transferable skills, search job possibilities and review training programs.

ⁱⁱ The US Bureau of Labor developed the *Dictionary of Occupational Title (DOT)*, for the US Employment Service. The occupational definitions are the result of comprehensive studies of how similar jobs are performed in establishments across the nation and are composites of data collected from diverse sources.

ⁱⁱⁱ The *Occupational Outlook Handbook* was developed by the US Department of Labor, Bureau of Labor Statistics. The Handbook describes worker's job task, working conditions, training and education requirements, earnings, and expected job prospects in various occupations. It is revised every two years.

^{iv} O*Net designed, developed and tested by scientific and technical experts under the leadership of the US Department of Labor, is a comprehensive database system that collects, organizes, describes and disseminates data on occupation characteristics and worker attributes. O*Net uses advanced technology to define the key elements of an occupation: descriptions of worker and requirements of the work.

^v SkillTRAN data is drawn from a variety of government and private sources in the US and Canada. SkillTRAN's primary sources of public information are the U.S. Department of Labor (DOL) and Human Resources and Skills Development Canada. Both countries compile and publish findings about occupations commonly found in the economy. DOL findings are published in the Dictionary of Occupational Titles (DOT) and various other DOL publications, including the new O'NET initiative.

^{vi} SkillTRAN's DOT estimator tool pulls data from the following sources:

- Occupational Employment Survey (OES) – www.bls.gov/oes
- Employment Projections – www.bls.gov/emp
- Occupational Projections and Training Data (OPTD) – www.bls.gov/emp/optd
- Current Population Survey (CPS) - www.bls.gov/CPS
- North American Industry Classification System (NAICS) www.census.gov/eos/www/naics
- SkillTRAN NAICS Industry Suggestions for each DOT occupation
- County Business Patterns (CBP) - <http://www.census.gov/epcd/cbp/index.html>

SkillTRAN notes this tool is peer reviewed and they established their estimation method over the course of many years of reviewing each of the 12,761 DOT descriptions. SkillTRAN further notes: "This is an ESTIMATION process, not any kind of assurance that "these ARE the actual numbers." Industries were verified using a variety of the following resources: U.S. Department of Labor, State labor market, and U.S. Census Bureau data sources; and/or the pre-set industries selected by SkillTRAN

^{vii} Industries were verified using U.S. Department of Labor, State labor market, and U.S. Census Bureau data sources; and/or the pre-set industries selected by SkillTRAN.

^{viii} Per the U.S. Bureau of Labor Statistics website: <http://www.bls.gov/bls/glossary.htm#P>, the wage percentile "shows what percentage of workers in an occupation earn less than a given wage and what percentage earn more. For example, a 25th percentile wage of \$15.00 indicates that 25% of workers (in a given occupation in a given area) earn less than \$15.00; therefore 75% of workers earn more than \$15.00." To further illustrate:

- The 10th percentile indicates that 90% earn more than the reported wage and 10% earn less than this wage.
- Median is defined as the middle or 50th percentile – indicating that 50% earn more than the reported wage and 50% earn less than this wage.
- The 75th percentile indicates that 25% earn more than the reported wage and 75% earn less than this wage.

 00FC6930 Jerry Arnette TSA_040820.	 00FC6930 Jerry Arnette TSA_040820.	 00FC6930 Jerry Arnette TSA_040820.
NAICS – Real Estate Clerk	NAICS – Customer Service	NAICS - Receptionist

Physical Demands – Strength Ratings**

S- Sedentary Work – Exerting up to 10 pounds of force occasionally. (Occasionally: activity or condition exist up to 1/3 of the time) and/or a negligible amount force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

L- Light Work – Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

M- Medium Work – Exerting 20 to 50 pounds of force occasionally, and/or 10 to 25 pounds of force frequently, and/or greater than negligible up to 10 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Light Work.

H- Heavy Work – Exerting 50 to 100 pounds of force occasionally, and/or 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those Medium Work.

V- Very Heavy Work – Exerting to excess of 100 pounds of force occasionally, and/or in excess to 50 pounds of force frequently, and/or in excess of 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Heavy Work.

** As described in the Dictionary of Occupational Titles, Fourth Edition Revised 1991 US Department of Labor Employment and Training Administration.

Curriculum Vita

Name:	Steven R. Cooper
Current Title:	Vocational Case Manager, Lead
Office	Benefits
Beginning:	August 7, 2006
Other industry experience	5 years: Vocational Rehabilitation Counselor and Job Developer in the private and public sectors. 3.8 years: Disability Adjudicator for SSI/SSDI claims, State of Oregon.
Other experience	3.5 years: Co-owner/president, Yeoman Services, Inc.: Serving employers and injured workers in job safety and occupational health training. 7 years: Commercial and residential electrician. Wide experience in construction, manufacturing, real estate, and retail.
Education & training	B.S. Education, 1982 Journeyman Inside Wireman, 2001 M.S. Rehabilitation Counseling, 2006 Certified Rehabilitation Counselor, 2006

Physical Demands – Strength Ratings*

S- Sedentary Work – Exerting up to 10 pounds of force occasionally. (Occasionally: activity or condition exist up to 1/3 of the time) and/or a negligible amount force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

L- Light Work – Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

M- Medium Work – Exerting 20 to 50 pounds of force occasionally, and/or 10 to 25 pounds of force frequently, and/or greater than negligible up to 10 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Light Work.

H- Heavy Work – Exerting 50 to 100 pounds of force occasionally, and/or 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those of Medium Work.

V- Very Heavy Work – Exerting to excess of 100 pounds of force occasionally, and/or in excess to 50 pounds of force frequently, and/or in excess of 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Heavy Work.

** As described in the Dictionary of Occupational Titles, Fourth Edition Revised 1991 US Department of Labor Employment and Training Administration.*

Standard Insurance Company

PO Box 2800 Portland OR 97208-2800

Education, Training and Experience

Computer/Technology Skills

Please indicate and comment on your computer knowledge in the areas listed below and provide an explanation.

	Yes	No	Please explain your use of this tool at work or home
Do you have experience operating a computer (Mac, pc, tablet)?	YES		VERY BASIC Computer skills mostly searches.
Word processing skills (Microsoft Office, Word, Power Point)?	NO		NOT SKILLED AT ALL WITH A COMPUTER. BASIC ENTRY SKILLS.
Spreadsheet experience, e.g. Excel?	NO		
Database experience, e.g. scheduling/ inventory?	YES		HAVE SCHEDULED Reservations WITH BASIC ENTRY SKILLS.
Do you use a computer for Inter net searches, e.g. google, on-line banking, job search, social media, on-line shopping, games/ videos, read articles/books on-line? Do you have an email account?	YES		YES BASIC Email & google searches. NO BANKING / games / etc I Don't check E-mail regularly enough to use it.
Do you use a smartphone?	YES		VERY Limited.
Do you text or send emails?	YES		TEXT But not Emails on the phone, Very Limited.
Do you use Apps on your smartphone?	NO		
Have you ever input numbers or text into an automated system, e.g. cash register, search engine like in a library or bookstore?	NO		

General Experience Indicate yes or no and length of experience.

	Yes	No	Please explain your experience as well as your length of experience
Do you have experience assisting customers, in-person or telephonically?	YES		I have always been in customer service 20+ years.
Experience interviewing others?	NO		
Typing, data entry, or keyboarding (WPM)?	YES		I peck out entering information
Have you ever used voice activated software?	NO		
Experience selling product or service (indicate type)?	YES		CARS, mobile homes, Real-estate
Filing, classifying or organizing?	YES		BASIC WITH folders
Experience composing letters or reports (indicate type or both)?	YES		BASIC LETTERS.
Experience tabulating/composing bills or invoices?	YES		BASIC SKILLS.
Presentation Skills?	NO		NONE.
Experience with record-keeping?	YES		BASIC WITH folders not on a computer.
Experience with shipping/receiving or monitoring inventory?	NO		
Do you belong to any professional association memberships?	NO		
Do you perform any volunteer work including community volunteer work, e.g. school/work creation?	NO		
Do you speak other languages, please specify?	NO		
Do you understand other languages, please specify?	NO		
Are you currently engaged in a vocational retraining program via Workforce Comp., Vocational Rehab, etc?	NO		

In the space below, briefly describe your personal interests, occupational interests and any hobbies that you may have including recreational or outdoor activities.

NONE CURRENTLY BECAUSE OF DISABILITY.

Acknowledgement

I certify that the statement made by me in answer to the foregoing questions is complete and correct to the best of my knowledge and belief.

R 831

Signature

[Signature]

Date

12-07-17 0366

A



The Standard®
Positively different.

August 12, 2019

Administrative Consultants
for State of South Carolina

JERRY M ARNETTE JR
555 PEARLIE RD
DILLON, SC 29536

Re: State of South Carolina
LTD Plan No. 627284, 621144
Claim No. 00FC6930, 00FF3058

Dear Mr. Arnette:

We are writing in regard to your Long Term Disability (LTD) claim with Standard Insurance Company (The Standard), Claims Administrator for the State of South Carolina LTD Plan.

We have received notification that you have been awarded Social Security benefits, effective August 01, 2017, in the amount of \$1,360.00 per month. We do not account for cost of living increases. Based on this information, your LTD claim has been recalculated and an overpayment of LTD benefits has accrued. Below is an explanation of how we calculated your claim.

As explained in prior correspondence, income you receive from Social Security and other sources forms the basis of your monthly income. Your LTD benefit supplements the other income you receive to help you maintain your overall monthly income at 65% of your predisability earnings.

Your claim has been recalculated taking into account your Social Security benefits. **The overpayment of your LTD claim amounts to \$28,654.37 as of May 14, 2019.**

Total Basic benefits paid:\$19,200.00
Total Basic benefits payable:\$6,712.16
Overpayment amount:\$12,487.84

Total Supplemental benefits paid:\$20,373.30
Total Supplemental benefits payable:\$4,206.77
Overpayment amount:\$16,166.53

According to information provided to us by Allsup, Inc., you selected their Overpayment Recovery Service to assist you in repaying the overpayment on your LTD claim with Standard Insurance Company. As such, this letter is provided for your records to indicate how the overpayment was calculated. Your agreement with Allsup, Inc. will satisfy your contractual

R 906

obligation regarding repayment of the current overpayment on your claim resulting from your Social Security award. Any additional benefits payable from Social Security that affect your LTD claim with The Standard would be recovered in the same manner.

Please note that you remain responsible for repaying the unpaid balance in full.

Your claim previously paid benefits through May 14, 2019, and was closed because your conditions are subject to the Chronic Pain, Musculoskeletal and Connective Tissue Conditions 24 month Limitation.

The following is an explanation of your right to a review of our decision.

If you want us to review your claim and this decision, you must send us a written request within 180 days after you receive this letter. If you request a review, you will have the right to submit additional information in connection with your claim. Additional information which would be helpful to a reconsideration of your claim includes information which shows that your Social Security benefit amount is not the amount shown in our records and/or the effective date of this benefit is different from the information we have on file. Please include any such new information along with your request for review.

If you request a review, it will be conducted by an individual who was not involved in the original decision. The review would be completed within 45 days after we receive your request unless circumstances beyond our control require an extension of an additional 45 days.

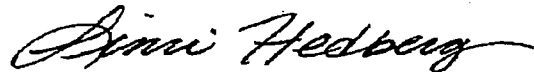
We want to let you know that upon further investigation, other valid reasons for limiting or denying your claim for benefits, which have not been previously considered, could come to our attention. Therefore, The Standard reserves the right to consider and assert other reasons for limitation or denial of your claim for benefits should they occur in the future.

Please consult your certificate or Insurance Benefits Guide for a description of your rights under the terms of the State of South Carolina LTD Plan.

Thank you for your cooperation. If you have any questions about this letter or your claim, please write or call me.

R 907

Sincerely,

A handwritten signature in black ink, reading "Simi Hedberg". The signature is fluid and cursive, with a long horizontal stroke at the end.

Simi Hedberg
Sr Disability Benefits Analyst
800-628-9696 ext. 7872

R 908

CERTIFICATE OF COUNSEL

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Docket No. 2022-000182

Jerry Arnette,

Appellant.

v.

**South Carolina Public Employee
Benefit Authority, Employee
Insurance Program,**

Respondent.

CERTIFICATE OF COUNSEL

I certify that this Record on Appeal contains all material proposed to be included by all parties and contains no matter that is irrelevant to this appeal.

August 29, 2022

s/ Jerry Arnette
Jerry Arnette
546 Pearlie Road
Dillon, South Carolina 29536
(843) 506-5967
Appellant, *pro se*

CERTIFICATE OF COUNSEL
THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Docket No. 2022-000182

RECEIVED

SEP 15 2022

SC Court of Appeals

Jerry Arnette,

Appellant.

v.

South Carolina Public Employee
Benefit Authority, Employee
Insurance Program,

Respondent.

CERTIFICATE OF COUNSEL

I certify that this Record on Appeal contains all material proposed to be included by all parties and contains no matter that is irrelevant to this appeal.

August 29, 2022

s/ Jerry Arnette
Jerry Arnette
546 Pearlie Road
Dillon, South Carolina 29536
(843) 506-5967
Appellant, *pro se*

0370