



INTRA-COMPANY CORRESPONDENCE

RECEIVERS LOCATION AND DEPARTMENT

DATE

May 15, 1987

TO (INDIVIDUALS NAME)

File

SENDER'S LOCATION, DEPARTMENT, AND TELEPHONE NUMBER

Employee Benefits

REFER TO LETTER OF

SUBJECT

REDACTED

On May 13, 1987, I discussed with John Ferguson in detail our position and discussed the possibilities of pursuing an appeal to the higher court. One of the big considerations in this matter is whether or not we can file an appeal since the statute of limitations may have expired. David Smith advised in an earlier conversation that once a decision is made, either party has 30 days to file an appeal.

In this particular instance, the court did not provide us with a copy of the appeal, and as a result the statute of limitations expired. Whether or not we are entitled to pursue an appeal is questionable.

In reviewing in greater detail the implications of pursuing an appeal, John Ferguson advises that should the courts accept our right to file an appeal, we are unable to introduce any new information. Therefore, at the hearing we would have to review the record in detail indicating why the claim should not be allowed.

Based on the previous record, there is very little information of substance that will sway a court to deny this claim. Primarily, the lack of a second opinion from a physician of our choice contradicting the attending physician's recommendation and opinion. In effect, we have no information of substance that will sway a judge to deny this claim.

John Ferguson advised that initially they did consider scheduling a second opinion, but decided to withhold doing that in the event that the examining physician would concur with the attending physician. In any event, since hind sight is always 20/20, we are stuck with this claim. As a result, John Ferguson will advise INA to initiate the payment of temporary total disability which will include a 20% penalty on the accrued benefit and continue to pay temporary total disability.

I indicated that we expect him to pursue the extent of disability issue and schedule an independent medical evaluation to consider his extent of disability. I stressed the need to be very aggressive in the approach to evaluate the extent of disability and that all actions should be taken to limit our future liability.

A
Anthony J. Colangelo
Workers' Compensation
Claims Administrator

AJC:pw

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