

DISABILITY CLAIMS SOLUTIONS CLIENT NEWSLETTER THE UNUM GROUP DILEMMA

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From The Lighthouse to The Outhouse

By Linda Nee, BA, HIA, DIA, DHP, ACAP

Unum Group can trace its historic origin to Mr. Elisha B. Pratt, one of the founders of the Connecticut Mutual Life Insurance Company who obtained a Maine Charter on July 17, 1848 to form a life insurance company named Union Mutual. The company sold life insurance policies to those crossing the country in the 1849 California Gold Rush. Mr. Elisha B. Pratt's motto "find a better way" identified him as one of the most inspired entrepreneurs of that day.

The demutualization of Unum Mutual in the late 1980's established the incorporation of UNUM Life Insurance Company of America. In 1994 UNUM Life Insurance Company, located on an impressive, high mounded campus surrounded by well-groomed lawns, trees, and landscaped gardens in Portland, Maine, proudly displayed the "Lighthouse of the World" logo with the slogan "We See Farther." Mr. Elisha Pratt would have been proud.

Under CEO Jim Orr III's leadership, UNUM Life Insurance became the leader in group LTD coverage in the United States and Canada. He once told me during a luncheon with claims specialists, "You are the cornerstone of the company. Without you (claims specialists) UNUM Life Insurance would not exist."

In June 1999, however, UNUM Life Insurance Company merged with The Provident Life and Accident and Paul Revere companies to form a new corporation named UNUMProvident. Although UNUM Life was perhaps not one the fairest of disability insurers, the company was well-respected and held top honors among the top five "best" employers in the United States.

UNUMProvident, now led by the notorious Ralph Mohny and his old cronies from Provident and Paul Revere, significantly changed the claims review process to a micromanaged, profit-producing machine. The lighthouse logo and slogan were removed from the main office entranceway, as new management set about devising strategies to deprive insureds of their benefits.

On March 21, 2003 the State of Georgia fined UnumProvident \$1 million and placed the company on



When I asked a Unum claims handler what the dots above the logo meant, he responded they symbolized "people." Obviously, Unum intends to reposition itself in the market as a "people organization." Unum Group's marketing and advertising now use the European-looking logo in an effort to disassociate itself from the former UNUMProvident and a long history of deceptive claims practices. Reputations are generally changed by what a corporation does rather than what its logo looks like. Go figure.

a two-year probation. Commissioner John Oxendine said at the time, "They are going to be required to maintain a certain level of fundamental fairness."

Subsequently, (2004) UNUMProvident was fined \$15 million by a multi-state commission of 47 states and the District of Columbia for engaging in unfair claims practices. The company, required to reassess denied claims dating back to 1997, accrued a total cost in excess of \$120 million as a result of bad faith claims practices in addition to the \$15 fine.

Finally, in October 2005, California's Insurance Commissioner, John Garamendi fined UNUMProvident \$8 million in what was called the "biggest fine in the agency's history."

In September 2007 UNUMProvident completed the reassessment of approximately 250,000 claims and re-organized into a company called Unum Group. Currently, the new organization (so-called) is telling federal and state regulators they are now "the good guys."

In 2007 CEO Tom Watjen received an annual salary of \$12.8 million. This is one year after the company renamed itself Unum Group.

Apparently, Unum Group hasn't changed its philosophy of denying claims but it has changed into a "horse of a different color." Claims denial strategies are even more devious as management continues to aggressively "risk manage" legitimately compensable claims. Obviously, Unum cannot police itself, and the fox is still in charge of the hen house.

Follow The Money – The Dichotomy of Provident Life and Accident Company

The growth of what eventually became Unum Corporation is attributed to J. Harold Chandler who became CEO of Provident in 1993 and ran the merged Unum-Provident-Paul Revere companies until he was dismissed in 2003 with a court won \$50 million.

Under Chandler, Unum implemented cost-containment strategies pressuring claims specialists to deny valid claims. CEO Chandler's fame is well-known for creating the "Hungry Vulture" award as a recognition for claims review personnel who denied the most claims. Every prize received bore the motto, *"Patience my foot, I'm gonna kill something."* Employees were particularly pressured to deny as many claims as possible during "scrub" months – months at the end of a quarter.

According to a DEF 14A SEC Filing, filed by UNUMProvident Corp on 4/7/1997 the beneficial ownership of the Corporation rested with Hugh O. Maclellan, Jr., members of his family, and/or trusts established for their benefit. In 1997 The Maclellan Foundation, Inc. owned 17.57 percent of the corporation's Common Stock while Hugh Maclellan, Jr. owned 40.94% (18,705,568 shares).

Also in March of 1997 Common Stock ownership by management included J. Harold Chandler (1,120,006 shares), Tom Watjen (179,341 shares), Robert Best (94,879 shares). CEO Watjen also had the right to acquire an additional 1,000,000 shares through the exercise of common stock options, despite the fact he transferred 150,000 options, presumably to his wife pursuant to a domestic relations order.

Therefore, the lion's share of UNUMProvident's (1997) Corporation Common Stock was owned by Hugh O. Maclellan, Jr. (40.94%), Directors and Executive Officers (47.98%), Charlotte M. Heffner (8.32%), and J. Harold Chandler (2.45%). (.31% was also owned by stockholders of less than 5% ownership.)

The connection between the Maclellan Foundation and Provident can be traced to Thomas Maclellan who took a job with Provident Life and Accident Insurance in 1892. Both of his children, Robert and Dora, eventually served Provident in some capacity. When Thomas died in 1916, Robert succeeded his father as President of the Provident companies.

Dora, who also assisted her father in the early years of Provident, actually signed some of the early

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The Enron and UnumProvident scandals broke at about the same time in late 2002. There are those who still believe top Unum officials should have been charged with criminal wrongdoing, but unfortunately Harold Chandler, Ralph Mohny and others escaped without penalty. Perhaps on a second pass Unum's management won't be so lucky since it looks as though the company has not turned over a new leaf.

policies in her position as secretary. All of the members of the Maclellan family were active in the Second Presbyterian Church. Thomas, in particular, consecrated his philosophy in covenant as follows, *"all that I am and all that I have, the faculties of my mind, the members of my body, my worldly possessions, my time, and my influence over others, all to be used entirely for Thy glory, and resolutely employed in obedience to Thy commands."*

Later, Dora's message continued, *"Each individual and every generation of the Maclellan family has possessed a significant desire to minister and use the gift of giving for the furtherance of the Kingdom of God. Regardless of their individual visions, the family has undividedly recognized the importance of appointing leadership that has fervent faith and dedication to this mission."*

Dora passed away in February 1974 therefore she missed the "Hungry Vulture Award" and the 3,000 lawsuits brought against UNUMProvident during Harold Chandler's reign of terror. It makes one wonder how such Christian principles wind up being the demise of so many insureds and claimants.

It is also interesting to note that in the lean times Unum Corporation has been able to muster additional capital from unknown sources, thereby saving itself from operating losses not favorably viewed by those to determine corporate bond ratings. However, Forbes (4/2/2008) currently reports a new player in the continuing saga of Unum Group.

Relational Investors LLC purchased \$26.7 million In Unum Group shares, giving the company 10.4% in the current ownership. After its purchase Relational Investors reported to the SEC it held nearly 36 million Unum Group shares, "compared with the company's 346.9 million shares outstanding as of February 21, 2008.

Some say in order to determine the future, you must look to the past. If this is true, we need only look at the history of Unum Corporation and its current aggressive claims practices. The Hungry Vulture may wind up looking like an innocent sparrow in comparison with what's in store for claimants in the future.

The Unum Group Dilemma
by Claims Consultant Linda Nee

After approximately 15 years in the disability claims industry, it is clear to me, and others in the industry, nearly all U.S. disability insurers engage in identical claims practices designed to target and deny legitimate claims. It is also clear, Unum crosses the line into “bad faith” more so than most. How do they do it? Why is Unum the disability insurer who gets caught and fined the majority of the time? What do they do that’s so bad?

Well, let’s take a look at Unum Group, past and present and see if we can make a reasonable prediction for the future.

1. Arrogance. While UNUM Life Insurance Company (prior to 1999) engaged in egregious claims practices the company gained the respect of employers and the investment community by reversing poor claims decisions and paying claims during appeal and/or litigation. At the time, UNUM’s management fully admitted to “aggressive claims management” and denied and settled disability claims using overt “risk management” strategies. In contrast, UNUMProvident’s philosophy centered on remaining steadfast, even when errors of record became obvious from the claim file. UNUMProvident preferred to stall and “hope” the insured would just go away, or at best run out of money before the claim had to be reversed. Provident’s attitudes of “starving out” ERISA claimants on appeal are well known. Provident frequently settles cases literally on the “courthouse steps” if the insured can last that long financially.
2. Unum’s management and staff are masters of deception involving the misrepresentation of otherwise credible documents submitted on behalf of the insured. Unum’s tactics and strategies involving the “snatching” of key phrases from documents favorable to them is well known. This is why Unum’s medical department insists on obtaining office consultation notes and not just Attending Physician Statements. Follow-up letters documenting doc-to-doc calls rarely contain accurate accounts of dialogs between Unum physicians and the insured’s primary care doctors. Records of TPCs (phone interviews) with the insured often misrepresent the intent of additional information volunteered by the insured. The purchasing of internal physician employee credentials (Board Certifications) in order to be able to attest to the credibility of reviews continually allows for the “rubber stamping” of denial decisions by medical insurance staff. Integrating egregious claims practices with first-line claims specialists who are deliberately kept ignorant of the significance of financial reserves are just a few of many misrepresentations taking place in the Unum claims review process.
3. Persistent non-admission of the existence of claim financial reserves. If I were to ask a Unum claims manager to divulge a specific financial reserve for a claim I would receive one of two responses, 1) the information is proprietary, or 2) we don’t have individual claim reserve information. Correctly, UNUM Life used financial reserve data all the time and distributed long lists of claim reserve data as part of their methodology in managing claims. UNUMProvident on the other hand immediately removed such information from the desks of the claims specialists and currently refuses to admit that financial reserves are integrated in both the BAS (Benefit Administrative System) for group STD/LTD and PACE for Individual Disability Income claims. It’s all a big secret. Why not admit UNUM uses individual financial reserves? What’s the big deal?
4. Expert propaganda and lobby resources. How is it possible Unum can engage in some of the worst egregious claims review practices and yet convince federal and state regulators they are on the up and up? Unum has more influence than you might think. Internally, frequent emails go out to employees continually emphasizing Unum’s philosophies and practices. For example, when Unum lost \$55 million in Enron investment dollars, messages from Ralph Mohney went out telling employees Unum had “plenty of money” to keep operating. Brokers received similar messages at the time of the multi-state settlement agreement. Unum’s ability to keep bad news out of the associated press is also remarkable. Unum’s employees are told not to talk to the press under fear of termination. Unum’s marketing and advertising departments are masters at manipulating the press. It can “tell a story” about anything, and keep its dirty laundry at home when it needs to.
5. Maintaining normal operations without sufficient financial reserves. At one time it became public knowledge UNUMProvident was not maintaining sufficient financial reserves to pay claims as regulated by the states. It would take an entire book to reveal how this is possible, but the underlying concept involves the integration of individual claim financial reserves with BAS and PACE – the two benefit payment systems used by Unum to pay claims. It is also believed at one time UNUMProvident connected ERDs (Expected Dates of Recovery) with financial reserves, however, the connection probably was removed sometime in the 4th quarter of 2002. Misuse of Reservation of Rights status also under reserves claims.

6. Misrepresentation of policy contract provisions. Unum Group's "the policy contract means what we say it means" seems to be emerging as a popular strategy to convince claimant's they have a burden of proof over and above what the policy really requires. Average lay persons would not know of their duties and responsibilities under the terms of the policy and certainly it seems reasonable for the insured to believe what they are told by the insurance company. It's actually against the law (federal or state) to misrepresent policy provisions to the insured, but what the heck, if it's Unum, who's watching?

All of the above information about Unum, by the way, can be easily located on the Internet since Unum's deceptive claims practices are a matter of public record and are no longer subjected to the scrutiny of whistle blowers.

Given the current condition of the economy it is likely Dora Maclellan may very well be turning over in her Presbyterian grave. It is reported Dora's father and a colleague actually chose not to take a salary so that Provident claims could be paid promptly. Perhaps we need to ask the current CEO's do do the same . I wouldn't hold my breath, though.

As many of you know, Disability Claims Solutions was incorporated in March 2008. In order to provide DCS clients with the best possible service, we are asking for volunteers to serve on various corporate Advisory Boards. The names of those who volunteer for the Board will not be given out to any other person but will act only in an advisory capacity to me or other board members should you elect to do so. Please volunteer only in a capacity for which you are qualified to participate, or could contribute. I don't expect this activity to take up much of anyone's time.

Here are the Advisory Boards I'd like to see as part of the new DCS cooperative organization:

Medical (Physicians in specific areas of the practice of medicine, or Registered Nurses with claim review experience.)

Client Support (If you've already been through those denial or disability ropes and feel you would be able to provide support to someone just beginning the process, then please volunteer for this group.)

Legal (Attorneys in the area of ERISA or disability litigation practice.)

IME Physicians (If you are an independent physician offering IME or peer review services on behalf of claimants and wish to be listed in our corporate data base, please sign up here and we will be happy to include your name as a DCS resource.)

Certified Rehabilitation Counselors (CRC) (Specialists with MS and/or CRC certifications.)

If you would like to become a member of one of our corporate advisory boards, please send me an email and I will be happy to include you as a member of that group. Thank you in advance for your generosity and assistance.

Despite the grim news about the economy and runaway disability insurers, Disability Claims Solutions, Inc. has had several successes with recoveries and approvals of benefits. I know it often seems as though insurance news is bad news to someone, but I can assure you there are many times when I can deliver good news to a client.

As always, if anyone has any questions, please feel free to contact me by email..

Linda