

[REDACTED]  
[REDACTED]  
Life and Accident Claim Services

July 1, 2009



**CIGNA Group**

Life • Accident • Disability

PO Box 22328

Pittsburgh, PA 15222-0328

Tele [REDACTED]

Facsimile [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
Insured Name:

Date of Birth:

Policy Number:

Underwriting Company:

[REDACTED]  
[REDACTED]  
[REDACTED] and [REDACTED]  
Life Insurance Company of North America

Dear Mr. McKee:

I am writing in regard to your claim for Accidental Paraplegia benefits under policy [REDACTED] and [REDACTED]. We have completed our review of your claim and have determined that benefits are not payable. I am writing to explain the outcome of the review.

In an effort to help you understand the basis of this decision, I have provided the applicable policy provisions. Copies of these policy provisions are enclosed. In order to be eligible for benefits, this claim must satisfy all of the policy provisions.

**Policy Provisions**

The Northrop Grumman Accidental Death and Dismemberment policy OK 980036 and OK 980037 states:

***Covered Loss***

*We will pay the benefit for any one of the Covered Losses listed in the Schedule of Benefits, if the Covered Person suffers a Covered Loss resulting directly and independently of all other causes from a Covered Accident within the applicable time period specified in the Schedule of Benefits.*

***Definitions***

***Paralysis or Paralyzed*** means total loss of use of a limb. A Physician must determine the loss of use to be complete and irreversible.

***Paraplegia*** means total Paralysis of both lower limbs or both upper limbs.

## **Evidence Evaluated**

I have reviewed the claim file as a whole, including the following documents, in making this determination:

- Proof of Loss claim form
- Attending Physician Statement completed by Dr. William Kuhn, dated July 24, 2008
- Medical records from Halifax Medical Center, beginning June 7, 2008
- Medical records from Dr. William Kuhn
- Volusia County EMS report
- Medical records from Dr. Carolyn Geis
- Medical Staffing Documentation Form, dated October 22, 2008
- Undated letter from Dr. Carolyn Geis, received in our office on November 24, 2008
- A copy of your Social Security Disability Award, beginning December of 2008
- A copy of your approval for Long Term Disability benefits through Unum, dated January 26, 2009
- Medical Staffing Documentation Form, dated June 30, 2008
- Group Accidental Death and Dismemberment policies OK 980036 and OK 980037

## **Summary of Evidence**

A review of your proof of loss form and the Attending Physician Statement completed by Dr. Kuhn reveals that on June 7, 2008, you were working on your home when a concrete wall fell on top of your back, causing severe injury. The events surrounding your injury were also documented in the Volusia County EMS report. Dr. Kuhn noted that you had undergone spinal surgical procedures on June 7 & 12, 2008, to attempt to correct some of the damage from the accident. It is noted that Dr. Kuhn completed the Attending Physician Statement on July 24, 2008, and that at that time he noted your level loss as follows:

"Left leg - entire - total paralysis"

"Right leg - Partial paralysis - non functional motor"

Medical records from Halifax Medical Center report that you were admitted on June 7, 2008, for closed fracture of the sacrum, coccyx and spinal cord injury. The records indicate that you underwent the following procedures as treatment for your injuries:

- L1-L2 decompressive laminectomy
- Intraoperative reduction L1-2 fracture subluxation
- Evacuation L1-2 intradural hematoma
- Druaplasty
- T12 through L3 posterior fusion with lamina autograft, cancellous allograft and demineralized bone matrix.
- T12 through L3 posterior spinal instrumentation with bilateral pedicle screw fixation

Medical records from Halifax Medical Center report that you underwent the following procedures on June 12, 2008:

- Revision of decompressive L1-L2 laminectomy, partial facetectomy
- Resection L1-2 herniated nucleus pulposus - micro technique
- Revision L1-2 posterolateral fusion with lamina autograft
- Duraplasty

The Halifax Hospital Discharge Summary dated June 19, 2008, indicates that you were discharged to rehabilitation and that you presently were confined to either a bed or chair due to your injuries.

A medical record from Dr. Geis' office dated September 9, 2008, indicated that as of that date your motor and sensory exams were as follows:

"MOTOR: BUE's 5/5, left hip flexor 2/5, right 1/5, left quadriceps 3/5, right 0/5, left ankle dorsi/plantar flexion 3/5, right 0/5."

"SENSORY: Impaired in the right lower extremity."

In an effort to better understand your current level of impairment and your potential for improvement, we presented the records in your claim file to one of our staff Medical Directors. This review was conducted on October 22, 2008. Upon review, the Medical Director stated that due to potential improvement, we would have to continue to obtain updated medical records throughout the one-year period following your injury. The Medical Director specifically stated that your future functionality within your lower extremities was as yet unknown.

A medical record from Dr. Geis' office dated November 6, 2008, indicated that as of that date your motor and sensory exams were as follows:

"MOTOR: BUE's 5/5, right hip flexor 2/5, left 1/5, hip extensor on the right 2/5, on the left 2/5, quadriceps on the right 3-/5, on the left 2-/5, hamstring on the right 3+/5, 1 on the left, ankle dorsiflexion on the right 1/5, 0 on the left, plantar flexion 2/5, 0 on the left. Tone is slightly increased in the lower extremities..."

On November 24, 2008, we received a letter from Dr. Carolyn Geis. In that letter Dr. Geis stated that she had been seeing you for since June of 2008, for rehabilitation following your back injury. Dr. Geis expressed that at that point while you retained some movement in your legs, you were too weak to use them in a functional manner. She classified your function at that time as, "incomplete paraplegia", which she explained described your condition as being incomplete paralysis of both lower extremities. Dr. Geis also indicated that while she felt that your loss would be irreversible to some degree, she could not at that time project your final recovery functional strength.

A Halifax Medical Center Physical Therapy report dated, May 7, 2009, indicated that you performed the following functional tests:

"...On the Functional Assessment Measures worksheet, his score is 17/21, (same as last re-evaluation, 12/40 initial evaluation), where the higher the score, the better the function.

Today patient completed the 10 meter speed test with a 4-wheeled walker in 22 seconds (31 seconds last re-evaluation with 4-wheeled walker independently, 54 seconds on 12/15/08 with contact guard assistance)."

"ASSESSMENT: During the course of physical therapy Mr. McKee's strength, mobility and function have improved. His strength has improved in some muscle groups by up to 2 grades. He has improved his ambulating speed by 9 seconds (25%) as compared to the last re-evaluation and over 100% as compared to when initially tested..."

The most recent record from Dr. Geis, dated, June 16, 2009, was received and reviewed. In the record, Dr. Geis states that she believes that you have now reached maximum medical improvement. She also stated that in her opinion you have a total functional loss, and that your condition is irreversible.

In an effort to understand your current level of function within your lower extremities, we again presented your file to our staff Medical Director for review. Specifically, we asked the Medical Director to comment on the fact that you have made significant progress and are now able to ambulate with a walker and are independent in your activities of daily living. After review of the medical records in your file, the staff Medical Director offered the following opinion:

"A review of the medical record indicates a paraparesis with residual useful function of the lower extremities. The Physical Therapy office note/letter of 5/7/09 is referenced and states that the insured's function, mobility and strength improved during the course of his physical therapy program. In some muscle groups the strength had improved by 2 grades. His ambulating speed had increased by 9 seconds 25% compared to last evaluation and 100% compared to the initial evaluation. The same was true for his, "Up and Go" test time---25% improved over last evaluation and 100% over the initial evaluation. The insured was able to ambulate 225 feet in 2 minutes, 50 seconds with no rest period using a 4 wheeled walker. It was further stated that the insured was independent with his home exercise program and was using his home pool.

It is this reviewer's opinion, with reasonable medical certainty, that the insured has not reached his MMI and that he does not suffer total functional loss of (use of) the lower extremities."

### Summary

Mr. McKee, please understand that we must evaluate your claim on the basis of the medical information in your file and the applicable provisions of policy OK 980036 and OK 980037.

As I have noted above, policy OK 980036 and OK 980037 define a "Covered Loss" is a loss that (results) directly and independently of other causes from a Covered Accident within the applicable time period specified in the Schedule of Benefits." The policies also state that, "Paralysis or Paralyzed means total loss of use of a limb. A Physician must determine the loss of use to be complete and irreversible." Within the policies, "Paraplegia means total Paralysis of both lower limbs or both upper limbs."

Dr. Geis has stated that your condition is best described as incomplete L1 paraparesis. Taber's Cyclopedic Medical Dictionary, 16<sup>th</sup> Edition defines paraparesis as, "Partial paralysis affecting the lower limbs."

The medical records in your claim file do support that you suffered a severe spinal injury on June 7, 2008, and that you continue to have residual functional loss that will not completely resolve. However, the records also support that you are able to ambulate and perform all of your activities of daily living. To qualify for *paraplegia* benefits under policy OK 980036 and OK 980037, you must have sustained *paralysis which means the total loss of use of a limb*. Your records support that you do have some use of your lower limbs, as you are able to stand and ambulate, as such, you do not have a *total loss of the use of your limbs*.

For the above stated reasons, accidental paralysis benefits are not payable to you under policy OK 980036 and OK 980037.

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Please understand that these policies differ from your Long Term Disability and Social Security benefits. We are not making any assertion with regard to your ability to perform an occupation.

### **Appeal Rights**

This action is based on the information in our file. If you are not satisfied or do not agree with the reason(s) for the denial of your claim, you may appeal the decision to:

CIGNA Group Insurance  
PO Box [REDACTED]  
[REDACTED]  
[REDACTED]

The appeal must be in writing, submitted within 60 days of the date you receive this letter and may contain the following information:

- the reason for the appeal and/or disagreement,
- the insured's name and social security number, and
- Proof that you have suffered a Covered Loss under the policy and that none of the policy exclusions would apply.

Under normal circumstances, you will be notified of the final decision within 60 days of the date your request for review is received. If there are special circumstances requiring delay, you will be notified of the final decision no later than 120 days after your request. You have a right to bring a legal action for benefits under the Employee Retirement Income Security Act of 1974 if your claim is denied on appeal. You may request copies of our claim file records relevant to the claim determination upon request and free of charge.

Nothing contained in this letter should be construed as a waiver of any rights or defenses under the policy. The determination has been made in good faith and without prejudice under the terms and conditions of the contract, whether or not specially mentioned herein. Should you have any information which would prove contrary to our findings, please submit it. We would be pleased to review any objective information you would wish to submit.

We encourage you to either contact the Northrop Grumman's employee benefits department or review the insurance booklet, certificate or coverage information made available to you, to determine if you are eligible for additional benefits.

[REDACTED] if you have any questions, please call me. You can reach me at our toll free number [REDACTED] extension [REDACTED] from 7:30 a.m. to 4:00 p.m. Monday through Friday or you may e-mail me at [REDACTED]. If you call and get my voice mail, leave a message and your call will be returned within one business day.

Sincerely,

[REDACTED]

Enclosure

Copy: Thomas E. Caldwell, Esquire

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