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MINUTES OF THE MEETING OF THE
BOARD OF TRUSTEES OF THE
OPERATING ENGINEERS LOCAL 77 HEALTH & WELFARE TRUST FUND
TUESDAY, AUGUST 8, 2023

The following Trustees were present:

UNION TRUSTEES	**EMPLOYER TRUSTEES**
J. VanDyke	C. Burke
R. Dennison	B. Mazzella
S. Faulkner	
T. Johnson	

ALSO PRESENT:

T. Bell – LaborFirst
W. Chambers – Associated Administrators, LLC
R. Devlin – Bolton (Part of the Meeting)
J. Dulczak – LaborFirst
C. Fuller – McChesney & Dale, P.C.
B. Gilroy – Training Coordinator
J. Linville – CVS Health
D. Melloh – Investment Performance Services, LLC (Part of the Meeting)
T. Mullarkey – LaborFirst
A. Sims – Associated Administrators, LLC

I. CALL TO ORDER

The Chairman called the meeting to order.

II. MINUTES

The Trustees, each having previously received a copy of the minutes of the regular meeting held on May 9, 2023, waived the reading, and,

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to approve the minutes of the regular meeting held on May 9, 2023 as written.

III. FINANCIAL REPORTS

Investment Performance Services

The Trustees welcomed Ms. Jennifer Mink from Investment Performance Services to the meeting. Ms. Mink reviewed the investment performance analysis for the second quarter 2023. The report indicated assets of $349,977,953 as of June 30, 2023 compared to $33,628,622 as of December 31, 2023, producing a gain of $697,439 for the quarter. The report further indicated the total return for the quarter ending June 30, 2023 was positive 1.1%. For domestic large cap equity the returns were 9.8%; for investment grade fixed income the returns were negative 0.6%; for short duration high yield fixed income the returns were 1.4%; and for real estate the returns were negative 2.2% for the quarter ending June 30, 2023.

Asset Allocation

Ms. Mink recommended rebalancing cash to the investment grade fixed income and short duration high yield fixed income allocations if not needed for benefit/expenses.

The Trustees thanked Ms. Mink for her report and she was excused from the meeting.

IV. CONSULTANT'S REPORT

Bolton – Consultant's Report

The Trustees welcomed Mr. Ryan Devlin of Bolton Partners to the meeting. Mr. Devlin distributed the Consultant's Report dated August 8, 2023. His report provided a financial update through June 30, 2023 and showed total revenue was 0.2% below projections; total contributions were 3.3% below projections; investment results were 41.8%, and total disbursements; benefit expense was 12.7% below projection, and administrative expenses were 11.3% above what Bolton had previously projected. Mr. Devlin reported that net assets in months (estimated through June 2023

were 20.4 (approximately $29.2 million). He provided an overview of the projected versus actual results for the six months ended June 30, 2023.

Labor First

Mr. Devlin reported on the Fund's recent move from a Retiree Drug Subsidy (RDS) to an Employer Group Waiver Plan (EGWP) through Aetna Medicare Advantage Part D (MAPD) effective January 1, 2023. He noted that the Trustees requested that Bolton solicit a proposal from RetireeFirst (formerly LaborFirst) to provide specialized services to the retirees enrolled in the Medicare Advantage market.

Mr. John Dulczak, Ms. Theresa Bell and Ms. Tricia Mullarkey from Labor First, a division of RetireeFirst were welcomed to the meeting. Mr. Dulczak distributed a copy of their report titled "LaborFirst Overview" and provided a summary of the firm's background, how LaborFirst works, and their partnerships with major national Medicare insurance carriers. Ms. Bell reviewed LaborFirst's customer service models and advocate profile view which is designed to proactively help improve the retiree healthcare experience and to serve as an extension of the Plan sponsors team. She said that Labor First would manage all CMS filings; late enrollment penalty, opt-outs and low income subsidies attestation; manage all eligibility maintenance in CMS's approved format, Medicare age-ins, dis-enrollments and retirees returning to work, and provide onsite client/retiree meetings.

The Trustees thanked Mr. Dulczak, Ms. Bell and Ms. Mullarky for their report and they were excused from the meeting.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to engage LaborFirst, effective January 1, 2024 and terminate KTP effective December 31, 2023.

Mr. Burke reported that the Fund would send a letter of authorization appointing LaborFirst to work with Aetna directly as it related to the Fund's Medicare Advantage renewal for 1/1/2024 and to provide administrative and advocacy services to the Fund to Aetna as soon as practicable.

High-Cost Gene Therapy

Mr. Devlin reported that gene-therapy is a therapeutic approach that is currently being investigated for the treatment of multiple diseases through early research or clinical trials. He noted that Gene-Therapy comes with significant cost and many risks; however, the US Food and Administration ("FDA") has already approved multiple gene-therapies. Mr. Devlin provided a summary of three approaches the Trustees could consider: (1) Exclusion - exclude gene therapy treatments from Fund coverage. This would protect the Fund from the significant negative financial impact and would not be a covered service for the member; (2) Bundled-pricing approach – continue to cover gene therapy treatments through a vendor who supports "bundled' pricing for these treatments. This approach would allow the member to get treatment and the Fund can achieve significant savings but the "bundled" price would still be a significant cost, and (3) Do nothing – pay the full discounted costs of the treatments if it occurs.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

> **RESOLVED to exclude gene-therapy treatments as a covered service and handle upon appeal. Draft an amendment to the Plan document and update the Summary Plan Description accordingly with this exclusion.**

CVS Formulary Update

Mr. Devlin stated that all Pharmacy Benefit Managers ("PBMs") are starting to roll out their options related to the new proposed government mandates involving limiting the price of insulin. He provided an overview of the two options that CVA is providing all clients for 2024: (1) the Fund pays lower up-front costs now that insulin will cost less but will receive less in rebates. This option means no disruption for membership as they can continue to take their current medications and CVS estimates this option will save the fund $707 based on 56-impacted brand scripts; (2) the Fund switches to a new choice formulary that allows the fund to continue to pay the higher upfront costs and therefore receive the higher rebate payments. This option would mean that members would be disrupted, as they would need to take new drugs that still achieve the higher rebate amounts. Mr. Devlin noted that CVS is implementing Option 1 for all Aetna's fully insured business that does provide a response by the August 15, 2023 deadline.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to approve Option 1.

PBM Market Update

Mr. Devlin reported that the IUOE PBM Coalition contract with Optum Rx is expiring at the end of 2024 and IUOE is conducting a PBM Request for Proposal ("RFP") and expect to have their new contract for 2025 through 2027 in place by March 2024. He stated that the IUOE is willing to provide a quote to the Fund based on the new pricing once available. Mr. Devlin reviewed the current HCCCC/CVS pricing versus the IUOE/Optum Rx pricing.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to solicit a quote based on the new pricing available from the IUOE.

V. ATTORNEY'S REPORT

Mr. Fuller reported that he continues to monitor the status of the transitional reinsurance fee litigation.

Mr. Fuller distributed the final draft of the Summary Plan Description dated August 2023 and reviewed additional language changes with the Trustees. After review with the Trustees, Mr. Fuller stated that these changes discussed by the Trustees would be incorporated and presented for final approval before printing.

VI. ADMINISTRATIVE MANAGER'S REPORT

Gain/Loss Reports

Ms. Chambers presented the Administrative Manager's Report for the period January 1, 2023 through June 30, 2023. Such report indicated total contributions of $7,821,461, self-payments of $9,450, COBRA income of $6,847, net negative reciprocity income of $329,778, retiree self-pay income of $394,189, prescription subsidy of $0, interest on delinquent contributions of $11,463, liquidated damages of $7,115, miscellaneous income of $2,918, interest income of $9,442, interest on investments in the American Core Realty account of $50,061, interest on investments in the Wedge fixed Capital Management account of $169,762, interest on investments in the Wedge LG Capital Management account of $1,478, dividend on investments in the Wedge LG Capital Management account of $21,005, interest on investments in the Chartwell Investment account of $265,930, interest on investments in the Vanguard account of $0, a loss in investments in the American Realty account of $338,832, a gain on investments in the Boyd Watterson account of $2,741, a gain in investments in the Wedge LG Capital Management account of $137,538, a gain on investments in the Vanguard account of $595,181, a gain on the investment in the Chartwell account of $27,671, a gain in the Wedge fixed income account of $54,822. There were expenses totaling $8,195,576 for the period, producing a net gain for the period of $1,134,075.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to accept the Administrative Manager's Report for the period January 1, 2023 through June 30, 2023 as presented.

VII. PARTICIPANT/PROVIDER APPEALS

Participant Appeal #M23/143-4963

Mr. Fuller presented an appeal from the billing agent for the provider. Charles Regional Medical Center is appealing for payment of an emergency room claim that was denied.

Fund records indicate that Charles Regional Medical Center submitted a claim for emergency room facility charges with a diagnosis of "Cellulitis and abscess of mouth." Emergency Medicine Associates also submitted a claim for emergency room physician's charges with the same diagnosis. The physician's charges were paid, up to the limits of the Plan. The facility charges were

denied because the visit was not considered emergency treatment within the extent of the Plan based on the billing diagnosis.

Medical records, received with the appeal, indicate the participant was seen in the emergency room on Wednesday, September 21, 2022 at 9:23 AM with a chief complaint of a sore throat that started one week before. It was noted that his sore throat went away and then felt worse on Saturday, leading to a foreign body sensation in his throat and left ear pain. The participant was evaluated, given a prescription for an antibiotic, and subsequently discharged at 10: 48 AM. After review, the claim remained denied because the visit was not considered emergency treatment within the extent of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to deny the appeal for payment of an emergency room claim that was denied.

Participant Appeal # M23/145-9950

Mr. Fuller presented an appeal from a provider, Washington DC VA Medical Center, for payment of an emergency room claim that was partially denied.

Fund records indicate that Washington DC VA Medical Center submitted claims for emergency room charges with a primary diagnosis of "Unilateral primary osteoarthritis, right hip." The emergency room physician, radiology, and ancillary charges were processed and the allowed amounts were applied to the participant's annual deductible, which was satisfied with the processing of these claims. The balance of the allowed amount(s) were paid, up to the limits of the Plan. The emergency room facility charges were denied because the visit was not considered emergency treatment within the extent of the Plan based on the billing diagnosis.

Medical records, received with the appeal, indicate the participant was seen in the emergency room on Tuesday, February 7, 2023 at 5:52 PM with a chief complaint of pain in his right side, buttocks, and leg for the past two weeks, and that ibuprofen was not helpful. It was noted that the pain started years ago. The participant was evaluated and an x-ray was performed which showed arthritis but

no fractures or dislocations. The participant was given a prescription for a muscle relaxant, instructions on managing pain, stiffness, and swelling at home, and subsequently discharged at 8:27 PM. After review, the facility charges remained denied because the visit was not considered emergency treatment within the extent of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to deny the appeal for payment of an emergency room claim that was denied.

Participant Appeal # M23/155-2446

Mr. Fuller presented an appeal from a participant for payment of a laboratory claim that was partially denied. The participant states in summary that he has a very significant family history of the Factor V blood disorder (a gene mutation that results in thrombophilia, which is an increased tendency to form abnormal blood clots) affecting his mom, brother, sister, and aunt. The participant further states that his brother had a very severe blood clot when he was in his 20's which resulted in permanent damage. Lastly, the participant states that he would rather know now if he is at risk of developing a clot as opposed to after it happening. Included with the appeal was a letter from Caitlyn Morrell, FNP-C. Ms. Morrell states in summary that this testing was medically necessary in her opinion and that they needed to know if he has the gene mutation as to best determine appropriate medical care.

Fund records indicate that Hagerstown Medical Laboratory submitted a claim including charges for genetic testing (CPT 81241), related to the Factor V blood disorder, on April 26, 2023. The charges for the genetic testing were denied because genetic testing is not a covered benefit of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to deny the appeal for payment of a genetic testing claim that was denied.

Participant Appeal # M23/156-7164

Mr. Fuller presented an appeal from a provider, Warren Memorial Hospital, for payment of an emergency room claim for the participant's spouse that was denied. The provider states in summary that they believe the services were medically necessary.

Fund records indicate that Warren Memorial Hospital submitted claims for emergency room physician and facility charges with a primary diagnosis of "Dizziness and giddiness." The physician's charges were allowed and applied to the participant's spouse's annual deductible. The facility charges were denied because the visit was not considered emergency treatment within the extent of the Plan based on the billing diagnosis. Note: Medical necessity was not a factor in the claim denial.

Medical records, received with the appeal, indicate the participant's spouse was seen in the emergency room on Monday, February 20, 2023 at 5:03 PM with a chief complaint of dizziness. The participant's spouse was evaluated, and blood tests and an ECG were performed. The participant's spouse was subsequently discharged at 9:44 PM. After review, the claim remained denied because the visit was not considered emergency treatment within the extent of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to grant the appeal for payment of an emergency room claim that was denied.

Participant Appeal # M23/158-1809

Mr. Fuller presented an appeal from a provider, Children's National Medical Center, for payment of an emergency room claim for the participant's one year-old daughter that was denied.

Fund records indicate that Children's National Medical Center submitted claims for emergency room physician and facility charges with the diagnosis "Acute nasopharyngitis." The physician's charges were allowed and paid, up to the limits of the Plan. The facility charges were denied because the visit was not considered emergency treatment within the extent of the Plan based on the billing diagnosis.

Medical records, received with the appeal, indicate the participant's daughter was seen in the emergency room on Sunday, September 5, 2021 at 5:33 PM with a chief complaint of a fever for four days, and a cough for three days. The participant's daughter was evaluated, a COVID test was performed, and she was subsequently discharged at 7:01 PM with a prescription for ibuprofen. After review, the claim remained denied because the visit was not considered emergency treatment within the extent of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to grant the appeal for payment of an emergency room claim that was denied.

Participant Appeal # M23/161-8250

Mr. Fuller presented an appeal from a billing agent for the provider. Charles Regional Medical Center is appealing for payment of an emergency room claim that was partially denied. The billing agent states that they disagree with the denial.

Fund records indicate that Charles Regional Medical Center submitted a claim for emergency room facility and ancillary charges with a primary diagnosis of "Epigastric pain." Emergency Medicine Associates also submitted a claim for emergency room physician's charges with the same diagnosis. The ancillary and physician's charges were paid, up to the limits of the Plan. The facility charges were denied because the visit was not considered emergency treatment within the extent of the Plan based on the billing diagnosis.

Medical records, received with the appeal, indicate the participant was seen in the emergency room on Monday, March 27, 2023 at 5:06 PM with a chief complaint of intermittent episodes of epigastric abdominal pain as well as lower abdominal pain "unrelated to his epigastric pain" that

radiated to the lower back. The participant was evaluated, lab tests were performed, and he was subsequently discharged at 7:42 PM with prescriptions for Pepcid and Protonix. After review, the claim remained denied because the visit was not considered emergency treatment within the extent of the Plan.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to grant the appeal for payment of an emergency room claim that was denied.

Participant Appeal # RX23/157-5939

Mr. Fuller presented an appeal from a provider, Dr. Sharon Peake, who is appealing on behalf of the participant for coverage of Wegovy, which is an injectable prescription drug used for weight loss. It was noted that a Prior Authorization for Wegovy was denied by CVS/Caremark because anti-obesity medications are not covered under the Plan.

Dr. Peake states in the appeal that the participant has a BMI (Body Mass Index) over 30 and "needs assistance in his weight loss journey."

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to table the appeal for additional medical information.

Participant Appeal RX23/162-4020

Mr. Fuller presented an appeal from a provider, Dr. Ahmed Kafaji, who is appealing on behalf of the participant for coverage of Ajovy, which is an injectable prescription drug that is used to prevent migraine headaches.

Ajovy requires a Prior Authorization under the Plan. It was noted that a Prior Authorization for Ajovy was denied by CVS/Caremark on July 5, 2023 because it did not meet its criteria for coverage. CVS/Caremark stated, **"Your plan covers this drug when you have tried any of the following for 8 weeks and it did not work for you, or you cannot take them: Antiepileptic drugs (AED) (e.g., divalproex sodium, topiramate, valproate sodium), Beta-adrenergic blocking agents (e.g., metoprolol, propranolol, timolol, atenolol, nadolol), Antidepressants (e.g., amitriptyline, venlafaxine)."**

Documentation received with the appeal indicates that the participant cannot take antiepileptic drugs because of potential side effects such as dizziness and insomnia; the participant cannot take beta-adrenergic blocking agents because of potential side effects such as fatigue, dizziness, weight gain, and sexual dysfunction; and the participant cannot take antidepressants because of potential side effects such as drowsiness and weight gain; and that these potential side effects could affect him as a crane operator.

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to table the appeal for additional medical history information.

Participant Appeal RX23/170-5285

Mr. Fuller presented an appeal from a provider, Dr. Tanvi Beri, who is appealing on behalf of the participant for coverage of Wegovy, which is an injectable prescription drug used for weight loss. It was noted that a Prior Authorization for Wegovy was denied by CVS/Caremark because anti-obesity medications are not covered under the Plan.

Dr. Beri states in the appeal that the participant has been "thinking about medication intervention to lose weight." Dr. Beri further states that the participant has a BMI (Body Mass Index) of 54.42 and that Wegovy "is necessary to the patient's plan of treatment."

Upon a motion made and seconded, the Trustees voted unanimous approval of the following resolution:

RESOLVED to table the appeal for additional medical history information.

VIII. NEXT MEETING DATE AND LOCATION

After discussion, the Trustees selected November 14, 2023 as the next meeting date at the offices of Associated Administrators in Landover, Maryland following the Pension Fund meeting.

IX. ADJOURNMENT

There being no further business to come before the Trustees, the meeting was adjourned.

Respectfully submitted,

John Knowles - Chairman