

# Manville Personal Injury Settlement Trust FAQs

## Last Updated: November 2016

These FAQs are arranged under the following headings:

- A. General
- B. Claim Criteria
- C. Supporting Evidence
- D. Payment Issues
- E. e-Claims Procedures and Issues

### **A. General**

#### **1. Who is the Claims Processing Facility for the Manville Trust?**

Claims Resolution Management Corporation (CRMC) is a claims processing facility owned by the Manville Personal Injury Settlement Trust (Manville Trust). CRMC provides claims processing services for the Manville Trust and for other similar trust funds established to resolve asbestos personal injury claims.

#### **2. How are the values of claims determined?**

Manville Trust claims are evaluated pursuant to a Trust Distribution Process (TDP), a negotiated document approved by the federal. All Manville Trust claims filed since October 10, 2003 are processed pursuant to the 2002 Manville TDP as amended, a copy of which is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter "T." It is necessary to read the TDP itself to understand it fully. Generally, the TDP establishes an efficient process to resolve claims in which CRMC systematically makes a Scheduled Value settlement offer if the evidence provided meets the exposure and medical criteria for an asbestos-related disease. The criteria and values for these Scheduled Diseases can be found at Section D of the TDP.

*The Manville Trust does not pay claimants the full settlement value of their claims.* In 1990, the courts that supervise the Trust determined that it has insufficient assets to pay every claimant the full value of his or her claim. For this reason, Section H of the 2002 TDP directs the Trust to pay each claimant as equal a share as possible of their claim's value. This share, or "*pro rata*" payment percentage, is currently 5.1%. Claimants can expect to receive an initial settlement payment of 5.1% of the value shown in Section D of the TDP for that disease level if the specified requirements are met.

#### **3. Does every claimant accept the Scheduled Value for his or her disease?**

No. Section C of the 2002 TDP permits Individual Evaluation of claims not placed in a Scheduled Disease category, non-standard claim, Secondary Exposure Claims, and claims where a higher value is clearly justified. "[B]ecause the

# Manville Personal Injury Settlement Trust FAQs

## Last Updated: November 2016

Scheduled Values represent an equitable settlement value for most claims that meet the criteria of a corresponding Scheduled Disease, and because individual evaluation will be costly and time-consuming, resulting in significant delay in claim payment, the Trust will not value a claim for a liquidated amount in excess of its Scheduled Value unless a higher value is clearly justified.” (2002 Manville TDP, Section C.)

#### 4. Can I dispute how my claim has been valued?

Yes. The 2002 TDP provides Alternative Dispute Resolution (ADR) procedures for claimants who disagree with the Scheduled Disease Level the Trust has assigned a claim, or who reject the value the Trust has offered in the Individual Evaluation process. Information regarding these procedures is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the “Documents” tab at letter “A.”

#### 5. How was the TDP adopted?

The initial TDP (“1995 Manville TDP”) was adopted as part of a Stipulation of Settlement approved by the federal courts overseeing class action litigation against the Trust. The history of Trust payment plans, including the TDP, is described in a series of federal court opinions. See, In re Joint E. & S. Dist. Asbestos Litig. (Findley v. Falise), 878 F. Supp. 473 (E. & S.D.N.Y. 1995), *aff’d in relevant part, rev’d in part, vacated and remanded on other grounds*, 78 F.3d 764 (2d Cir. 1996). The TDP was modified in certain respects in 2002 (“2002 Manville TDP”). See, In re Joint E. & S. Dist. Asbestos Litig., 237 F. Supp.2d 297 (E. & S.D.N.Y. 2002).

#### 6. Can a claimant receive faster review if he or she is dying?

Yes. Section C.10 of the 2002 TDP directs the Manville Trust to give priority in processing to “Exigent Health” claims, where there is substantial medical doubt that the claimant will survive six more months because of an asbestos-related illness. An Exigent Health Status Request Form is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter “E.”

#### 7. Is faster processing also available if a claimant has severe financial hardship?

Yes. Section C.10 of the 2002 TDP also directs priority processing where the Trust, in its sole discretion, determines there is a causal connection between a claimant’s poor financial condition and an asbestos-related disease. A Hardship Application Form is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter “H.”

# Manville Personal Injury Settlement Trust FAQs

## Last Updated: November 2016

### 8. Do I need a lawyer to file a Manville Trust claim?

No. A claimant may file a claim “*pro se*” (without a lawyer) by filing a completed proof of claim form along with all required evidence.

### 9. Won’t a lawyer take a large share of my settlement?

No. No matter what a claimant’s contract with his or her lawyer says, Section J of the 2002 TDP limits attorneys’ fees to 25% of a Manville Trust settlement payment, exclusive of costs chargeable to the claimant.

### 10. Can the Trust recommend an asbestos lawyer to handle my claim?

No. The Trust cannot provide lawyer recommendations, nor can it give any legal advice about how to handle your claim.

### 11. Are documents available relating to the Johns Manville Company’s asbestos history?

Yes. The Trust has an Asbestos Claims Research Facility (ACRF) in Aurora, Colorado. The ACRF maintains a massive collection of historical JM documents relating to all aspects of its asbestos business, which it makes available for the research needs of Manville Trust Beneficiaries. Information regarding the ACRF is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter “A.”

### 12. Is a claimant’s Manville Trust claim file kept as confidential?

Generally yes, but not if it is subject to subpoena in litigation in the courts. The Manville Trust and CRMC maintain claimant information as confidential. But there is an important exception. The Manville TDP, requires the production of individual claimant information in response to certain subpoenas. Section I of the Manville TDP establishes the way in which information and documents regarding individual Manville Trust claims must be produced in discovery as part of litigation between Trust Beneficiaries, which includes asbestos personal injury defendants as well as plaintiffs. Guidance regarding the Trust’s procedures for release of claimant information and documents are available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the Documents tab for Manville Trust under the letter “T” with the title “Third Party Discovery – Response to Subpoenas Pursuant to the 2002 Manville TDP.” Before producing a claim file pursuant to subpoena, it is the Trust’s policy to notify the claimant or claimant’s counsel, providing them with an opportunity to object in court to the production. Claimants and their counsel should assume that any information or document they submit relating to their Manville Trust claim might be produced pursuant to

# Manville Personal Injury Settlement Trust FAQs

## Last Updated: November 2016

subpoena or court order. Also, to prevent fraud, the Trust might contact others to confirm the authenticity or reliability of documents submitted to support a claim, and may report incidents of fraud.

### **B. Claim Criteria**

#### **1. Is benign mesothelioma compensable?**

No.

#### **2. Are Level VI (lung cancer), Secondary Exposure, and Non-Standard claims automatically routed to Individual Evaluation?**

Yes. Please review the documents tab at letter “L” available at the CRMC website, [www.claimsres.com](http://www.claimsres.com) for further details on the Level VI claims.

#### **3. Does the Trust have an SOL policy?**

Yes. Please review the SOL policy under the documents at letter “S” available at the CRMC website, [www.claimsres.com](http://www.claimsres.com).

### **C. Supporting Evidence**

#### **1. When must the diagnosis be made by a physician conducting a physical examination of the injured party?**

Under Section E.1(a) of the 2002 TDP, the physician who provides the diagnosis of an asbestos-related non-malignant disease for a **living claimant** must have personally performed a physical examination of the claimant.

#### **2. Does the Trust accept medical reports from all doctors and medical facilities?**

No. The Trust has suspended acceptance of medical reports from a number of specific physicians and medical facilities, and currently will not accept medical reports from these suspended medical providers to support a Manville Trust claim. The names of the suspended physicians and facilities are available in notices on the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter “M” and titled “Suspension of Acceptance of Medical Records.” Check all such notices on the website to determine if a particular physician or facility is suspended.

# Manville Personal Injury Settlement Trust FAQs

Last Updated: November 2016

## **3. How do I determine if the injured party meets the Significant Occupational Exposure (SOE) criteria?**

Pursuant to Section D of the 2002 TDP, injured parties must establish that they meet the criteria for Significant Occupational Exposure to asbestos (SOE) in order to be eligible for compensation under scheduled disease Levels III, IV, V, and VII. Guidance regarding SOE criterion is available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter "S". That document explains how to use the "SOE Occupation and Industry Chart" to determine if the injured party presumptively meets the SOE criteria on the basis of his or her industry and occupation pairing. There is a separate "SOE Proximity Chart," which applies only to electricians.

## **4. What is the difference between the SOE affidavits and the unsworn declarations made under penalty of perjury?**

The difference is in format only. They are substantively and functionally interchangeable. Properly completed, both formats are accepted by the Trust as part of the supporting evidence of SOE. Both formats also are routinely accepted by courts.

## **5. Is the submission of a signed release required?**

Yes. Whether filing electronically (hybrid) or by paper, a pre-formatted release generated by eClaims will be provided for completion by the injured party or their representative. Releases may be uploaded into the eClaims system using the documents page.

## **6. Why does the system require an MV-Exposure Doc for certain claims?**

There are two situations for which this document is required:

- a. For claims where the exposure took place within the U.S but no Social Security Number has been provided for the injured party.
- b. The proof of claim alleges exposure solely at a JM plant. An affidavit must be submitted detailing all periods of exposure to asbestos.

## **D. Payment Issues**

### **1. Has the pro rata payment percentage changed, and can it change again?**

The TDP requires the Trust to review the pro rata share at least every three years. The Manville Trustees set the payment percentage and the Selected Counsel for the Beneficiaries (SCB) and the Legal Representative of Future Claimants must concur before a change is made. As indicated in both the 1995 TDP and the 2002

# **Manville Personal Injury Settlement Trust FAQs**

## **Last Updated: November 2016**

TDP, the pro rata payment percentage was initially set in 1995 at ten percent (10%). However, in June 2001, the Trust reduced the pro rata share to five percent (5%) of liquidated value on an interim basis. In March, 2008, the pro rata payment percentage was raised to 7.5%. In August of 2014 the pro rata share was lowered to 6.25%. In November of 2016, it was lowered to 5.1%. As required by TDP section H1 (d) and (e), the parties will continue to review the pro rata payment percentage periodically to determine if a change is required.

### **2. Are Level I Cash Discount Payments affected by changes in the pro rata share?**

No.

### **3. How does a law firm arrange to receive payments through electronic funds transfer?**

By executing and submitting a copy of the Trust's Agreement for Electronic Funds Transfer, available at the CRMC website, [www.claimsres.com](http://www.claimsres.com), under the documents tab at letter "E." Contact Debra Jones (703-204-9300 ext. 820) for more information.

## **E. Filing Procedures and Issues**

### **1. What is the e-Claims system?**

The e-Claims system is an automated claims processing system, custom designed to process and value asbestos injury claims. It has been modified over time to enhance its ability to handle claims for multiple asbestos bankruptcy trusts. With the e-Claims system, law firms have the opportunity to become e-filers, which permits them to file claims electronically through a secure on-line web connection, via batch submission, or web services. The requirements for filing via batch or web services can be found under the documents tab at letter "B" available at the CRMC website, [www.claimsres.com](http://www.claimsres.com).

### **2. How does a law firm become an electronic (hybrid) filer?**

Law firms that decide to become electronic (hybrid) filers should contact Debra Jones (703-204-9300, ext. 820) to learn what documents are required. Firms can contact Debra to request view-only access to their claims information and status and can stay advised of Trust policies through the website.

### **3. Can a law firm be both an electronic (hybrid) and a paper filer?**

No.