

Memorandum

Re: Suspension of Acceptance of Medical Records Prepared by
Dr. Gregory Nayden and the American Medical Testing Facility

From: David Austern
President, CRMC

Date: September 24, 2002

The Claims Resolution Management Corporation (CRMC) recently learned of deposition testimony that casts doubt upon the credibility of medical records upon which some claims against the Manville Personal Injury Settlement Trust (“the Trust”) are based. Inappropriate asbestos claim screening practices employed by the American Medical Testing (AMT) facility and its Medical Director, Dr. Gregory Nayden, were called into question through a submission made by counsel for Co-Defendants in response to newly announced changes to the Manville Trust’s Trust Distribution Process (TDP). A copy of the Co-defendants’ submission follows this Memorandum.

By way of background, and as explained in the TDP Changes Memorandum, the 1995 TDP was amended and a 2002 TDP was agreed upon by the Selected Counsel for the Beneficiaries (SCB), the Legal Representative for Future Claimants and the Trust on August 28th. The TDP Changes Memorandum, the amended 1995 TDP and the 2002 TDP are at the “Documents” tab on this website.

Having been placed on notice of the alleged shortcomings of the medical records generated by Dr. Nayden and the AMT facility, the Trust was obliged by its fiduciary position to investigate further. My staff and I have reviewed Dr. Nayden’s deposition and the depositions of AMT owner/manager Guy Foster and several of his employees. We are persuaded that the Co-Defendants’ allegations are not exaggerated or misplaced. Read in the light most favorable to Dr. Nayden and the AMT facility, there were critical “misunderstandings” as to what was happening in the screening process and what was represented by the records that resulted from that process. AMT and Dr. Nayden generated documents that appeared to be legitimate medical records, but upon investigation, those records are bereft of credibility. Therefore, the CRMC is no longer accepting claims that are based upon their reports.

Among the issues that lead CRMC to reject medical reports prepared by AMT and Dr. Nayden are:

- The repeated misconception that a diagnosis can be based solely upon a B-reading;
- The incomplete and unreliable work and exposure history taken by the AMT “intake” workers and available for review by Dr. Nayden;

- Dr. Nayden's inadequate familiarity with the PFT, ILO and B-Reading processes and terminology; and
- Inconsistent testimony given by AMT personnel.

It is clear from their deposition testimony in the case of Marion C. Bentley, Sr., et al. V. Crane Co., et al., No. 92-7655, Jasper County, Mississippi Circuit Court ("Bentley") that associates of the AMT clinic shared little by way of a common understanding for how their work fit together in the asbestos claims screening process in which they were engaged.

Please contact Deputy General Counsel Jodye Marvin if you have questions concerning the CRMC's decision to reject medical reports prepared by the AMT facility and Dr. Nayden.