

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

WILLIAM T. COOLEY, JR.

PLAINTIFF

VS.

CIVIL ACTION NO. 4:08-CV-00035-TSL-LRA

DENBURY ONSHORE, LLC

DEFENDANT

AND

AMERICAN INTERSTATE INSURANCE COMPANY

INTERVENOR

ORDER APPROVING SETTLEMENT

THIS CAUSE having come on this day to be heard before the Court in the above-styled cause, asking for the approval of a full and final settlement of WILLIAM T. COOLEY, JR., (Petitioner) any claims arising out of that accident and injury dated September 19, 2006, and the Court, having sufficiently examined said proposal, and being fully advised in the premises, is of the opinion that the certain offer of compromise and settlement made to Petitioner should be approved. It is, therefore:

ORDERED that said compromise settlement of Petitioner, WILLIAM T. COOLEY'S claims should be, and the same are hereby, approved, and that Defendant, DENBURY ONSHORE, LLC., and its liability Carrier, TRAVELERS INSURANCE COMPANY shall pay to WILLIAM T. COOLEY, Petitioner, the sum of \$800,000.00 in complete compromise, settlement and discharge of all claims of every kind and nature. As a part of this settlement AMERICAN INTERSTATE INSURANCE COMPANY has waived its lien in exchange for a full and final 9(i) settlement of WILLIAM T. COOLEY'S claim on the docket of the Mississippi Workers' Compensation

Commission under the docket number MWCC No.: 0609955-J-7952 against FLOQUIP, INC, Employer and AMERICAN INTERSTATE INSURANCE COMPANY, Carrier, all in full and complete accord, satisfaction, settlement and discharge of any and all claims which the Petitioner may have against DENBURY ONSHORE LLC., and its liability Carrier, TRAVELERS INSURANCE COMPANY and AMERICAN INTERSTATE INSURANCE COMPANY and its insured, FLOQUIP, INC., all said payments being made in complete compromise and settlement of all claims of every kind and nature between and among all the parties hereto arising out of or connected with Petitioner's alleged injuries. It is further,

ORDERED that upon payment of said settlement sums to WILLIAM T. COOLEY, DENBURY ONSHORE LLC., and its liability Carrier, TRAVELERS, and all entities in privity with them, shall stand fully and completely discharged of any other or further liability to Petitioner for, the accident and injury sustained by WILLIAM T. COOLEY on or about September 19, 2006, or of the effects thereof; and also that, upon said payment being made, AMERICAN INTERSTATE INSURANCE COMPANY and its insured, FLOQUIP, INC., shall likewise stand discharged from any and all further liability and claims of Petitioner arising out of or connected with said injuries; and that Petitioner and the parties are hereby authorized, empowered and directed to execute any receipt, release or other instrument required to evidence the full and final release, acquittal and discharge of all the respective claims herein.

SO ORDERED on this the 9th day of April, 2010.

/s/Tom S. Lee
UNITED STATES DISTRICT JUDGE

APPROVED:

s//Paul Richard Lambert

PAUL RICHARD LAMBERT, ESQUIRE
Attorney for William T. Cooley, Jr.

s//Roger C. Riddick

ROGER C. RIDDICK, ESQUIRE
Attorney for Denbury Onshore LLC.

s//Phillip W. Jarrell

PHILLIP W. JARRELL, ESQUIRE
Attorney for Floquip Inc.

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DENBURY ONSHORE, LLC.,

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AMERICAN INTERSTATE INSURANCE COMPANY

INTERVENOR

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PETITION FOR APPROVAL OF THIRD PARTY SETTLEMENT

COMES NOW, William T. Cooley, Petitioner, joined by Denbury Onshore, LLC., Defendant and American Interstate Insurance Company (American Interstate), Intervenor, and would show unto this Honorable Court as follows, to-wit:

I.

While an employee of Floquip, Inc., Cooley was involved in an accident at the G. Stanley 1 Well owned by Defendant, Denbury Onshore, LLC., on or about September 19, 2006, and on said date he sustained injuries, which arose out of and in the course and scope of his employment.

As of this time American Interstate, as the workers' compensation carrier for Floquip, Inc., has paid Mississippi workers' compensation benefits including medical payments to and on behalf of the Claimant in the total sum of \$162,787.46. American Interstate has agreed to waive its entire lien in the amount of \$162,787.46 in exchange for a full and final settlement, pursuant to the Mississippi Workers' Compensation Act.

II.

Petitioner has agreed to accept and Defendant, Denbury Onshore LLC., and its liability insurer St. Paul Surplus Lines Insurance Company have agreed to pay the sum of \$800,000.00 to Petitioner as a full and final settlement of any and all claims and demands which he *has or may have had* against the Defendant, Denbury Onshore LLC., and *additionally* American Interstate has agreed to waive its lien in the amount of \$162,787.46, in exchange for a full and final 9(i) compromise settlement of the claim of William T. Cooley, Jr., against Floquip, Inc., Employer, and American Interstate Insurance Company, Carrier pursuant to the provisions of the Mississippi Workers' Compensation Act in that certain workers compensation claim being on the docket as MWCC No. 0609955-J-7952. Additionally, by virtue of this payment to Plaintiff, and the exoneration of all future liability under the Mississippi Workers' Compensation Act, American Interstate, Intervenor and FloQuip as the Employer, have agreed to release Denbury from any and all claims under §71-3-71 Miss. Code Ann. whether statutory, in tort for indemnification, or otherwise.

III.

Petitioner would show unto this Court that there is a bona fide and legitimate dispute between Petitioner and the Employer and Carrier in the Workers' Compensation claim referenced above as to the extent and/or the amount of disability and loss of wage earning capacity, if any.

IV.

Petitioner would show that he, together with the parties to this case and his workers' compensation carrier, have considered the application of 42 U.S.C. Section 1395(y), the

Medicare Secondary Payor Statute, and that all are of the opinion that this settlement is not one that is required to be submitted to the Center for Medicare and Medicaid Services (CMS) for review and approval. In support of that position, the Petitioner would state that he is not drawing Social Security benefits and is neither a current Medicaid nor Medicare recipient. See Exhibit "A" attached hereto and made a part hereof. The parties to this case and the carrier in the workers' compensation claim referenced herein have relied on Petitioner's sworn assertions in that regard in agreeing to settle this claim, and Petitioner understands and acknowledges that the parties will seek indemnification to include attorneys fees and all other recoverable damages from Petitioner in the event of any claims by Medicare or CMS, if any, or from any adverse consequences to them flowing from any misrepresentations regarding his status and entitlement to Social Security and/or Medicare and/or Medicaid benefits. The Petitioner would show that he has not submitted any medical expenses to either Medicare or Medicaid which should have been submitted to the workers compensation carrier for payment. In the event a Medicare/Medicaid lien remains outstanding at the time this case is settled, the lien will be satisfied by the Petitioner and not Denbury Onshore LLC., or FloQuip, Inc. or American Interstate. Even though this is not a settlement to be submitted to CMS, the interests of CMS were considered by the parties and out of an abundance of caution a Medicare Set-Aside allocation was prepared but not submitted as agreed by all the parties. See Exhibit "B" attached hereto and made a part hereof.

V.

Furthermore, Petitioner should be authorized to fully and finally settle and compromise all claims against American Interstate and its' insured, Floquip Inc., for workers' compensation

benefits, and all claims against Defendant Denbury Onshore, LLC. arising out of or in any way connected with those injuries incurred on September 19, 2006.

VI.

The Intervenor, American Interstate Insurance Company and FloQuip, Inc., Employer, hereby join in this Petition and as part of the settlement waive their statutory lien pursuant to §71-3-71 Miss. Code Ann. and agree that this settlement shall release Denbury and its insurers from any past or future claims or liens pursuant to the Mississippi Workers' Compensation Act or otherwise. Petitioner would further show that he has employed the services of Paul Richard Lambert, and has rendered valuable services in bringing about the aforesaid offer of compromise and settlement, and that Plaintiff has agreed to pay said attorney, subject to approval of the Court, the sum of \$320,000.00.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Petition be considered by this Court and that upon due consideration will enter an Order approving said compromise and settlement as set forth above as a full and complete settlement, accord and satisfaction for all disability and damages of every kind and nature for those injuries occurring on September 19, 2006, and that said payment, when made, shall fully acquit and discharge Denbury Onshore LLC., and American Interstate and any and all parties in privity with any of them, from any further liability because of, arising out of, or in any way connected with said accident injury.

FURTHER, said payment when made should fully acquit and discharge Denbury Onshore, LLC, and its insurers from any past, present, or future liability arising out of said

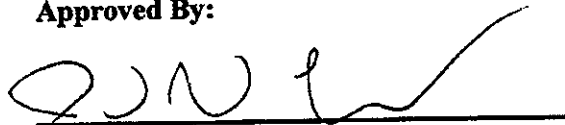
accidental injury or from any statutory lien or claim which FloQuip, Inc. or American Interstate may have.

Petitioners pray that this the Court will authorize and empower them to execute any and all receipts, releases, acquaintances, and every instrument required by the parties to effectuate the purposes hereof.

RESPECTFULLY SUBMITTED, this 8th day of April, 2010.


WILLIAM T. COOLEY, JR.

Approved By:


PAUL RICHARD LAMBERT,
Attorney for Plaintiff

STATE OF MISSISSIPPI

COUNTY OF Forrest

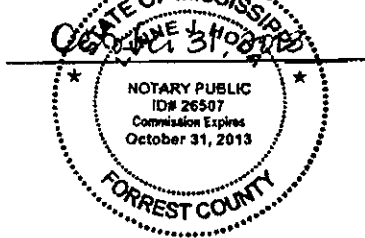
PERSONALLY APPEARED BEFORE ME the undersigned authority in and for said jurisdiction, the within William T. Cooley, who states on oath that the averments contained in the foregoing Petition are true and correct as stated.

William T. Cooley Jr.
WILLIAM T. COOLEY

SWORN TO AND SUBSCRIBED BEFORE ME on this the 8th day of April, 2010.

Suzanne G. Holden
NOTARY PUBLIC

My Commission Expires:



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JUL 08 2010
M. W. C. C.
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Date Recv: 02/25/2010

TOTAL P.001



Social Security Administration

446 N. 6th Avenue
Lumbert, MS 39440
Phone: 666-964-4927
FAX: 601-624-8382

February 25, 2010

Express Scripts Medicare Set Asides
6272 Lee Vista Blvd.
Orlando, FL 32822

RE: William Cooley
427-49-2872

In response to your request about Mr. Cooley, he is not drawing any benefits from us and has not made an appointment to file a claim.

*Robin Windham
Service Representative*

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M. W. C. C.
DOCKET ROOM



will put in mail also
601 428 8882 P.001/001

Claim#: 200659655 DocID: 1452125



6272 Lee Vista Blvd
 Orlando, FL 32822
 T: 1.800.985.3390
 F: 1.800.985.3391

Medicare Allocation Report
All rated ages obtained on claimant have been included

Injured Worker	William Cooley	Insurer	Amerisafe
Address	67 Sam Jordan Drive Shubuta, MS 39360	Address	2301 Hwy 190 West DeRidder, LA 70634
Phone Number	601-168-5954	Phone Number	601-425-3003
SSN	427-49-2872	Insurer Contact	Jim Williams
DOB	June 6, 1981	Claim Number	200659655
Current Age	29 years	Date of Injury	September 19, 2006
Life Expectancy based on (RA)	47.4 years rounded to 47	State of Jurisdiction	Mississippi
Rated Age (RA)	32 years	Employer	Floquip, Inc & Del's Equipment, Inc
		Address	PO Box 80156 Lafayette, LA 70598
		Phone Number	337-261-1420
Beneficiary's Attorney	Not Provided	Insured's Attorney	Not Provided
Related Diagnoses	Left below knee amputation Pain in limb Phantom limb pain Complex regional pain syndrome Right hip pain Right hip arthritis Depression Post-traumatic stress disorder	ICD-9 Codes	897.0 729.5 353.6 337.22 719.45 715.96 296.33 309.81
Social Security Disability Status	Unknown	Medicare Status	Unknown
Prepared By	Express Scripts	Date of Report	February 12, 2010

Medicare Allocation Amount: \$703,447.96
Future Prescription Drug Treatment Amount: \$ 85,169.64

Total WCMSA Proposal: \$788,617.60

Non-Medicare Covered Amount: \$1,460.76



February 12, 2010
Medicare Set Aside
Page 2 of 8

Disclaimers

It is anticipated that the Medicare Set Aside Allowance will assist in the claim settlement portion for future medical care by adequately addressing the interests of the injured worker, the carrier, and Medicare.

The figures in the MSA allocation are based on one of the following sources: individual state's prevailing worker's compensation fee schedule, Physician's Fee Reference 2007 - 75th percentile by locality, current healthcare provider/vendor charges based on treatment rendered within the last three years, or as individually noted, along with projected treatments according to the injured worker's diagnosis.

Per CMS guidelines for the calculation of future prescription drug costs in accordance with the memorandum dated 04/03/2009, future prescription drug cost calculations will occur using the Average Wholesale Price (AWP) in addition to application of the following methodology where / when appropriate:

1. Use of generic equivalents.
2. Use of a rated age where appropriate to determine life expectancy.
3. Standard practice guidelines for appropriate utilization as defined by a licensed pharmacist.

To ensure that this injured worker is receiving safe, rational and effective treatment for their occupational injury, while minimizing the potential for medication-related problems that may interfere with the goals of therapy, all of the recommendations made within this report mirror the desired treatment goals outlined in the clinical practice guidelines adopted by the American Academy of Physical Medicine and Rehabilitation, including: 1) reduce the misuse, overuse or dependency on medications; 2) maximize and maintain optimal physical activity and function; 3) return to productive activity at home, socially and/or at work; 4) increase the patient's ability to self-manage pain and related problems; 5) reduce subjective pain intensity; 6) reduce/eliminate the use of ongoing health care services for primary pain complaint; 7) minimize treatment cost without sacrificing quality of care.¹

1. Sanders SH, Rucker KS, Anderson KO, et al. *Clinical practice guidelines for chronic non-malignant pain syndrome patients II: an evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan; 13:47-58.

Significant changes in the patient's medical condition, new medical information not available at the time of this MSA writing that would change the future medical cost allocation, or changes in the CMS Guidelines that would affect the MSA allocation occurring before CMS approval, will require CMS notification and the development of a revised MSA.

This MSA was based on documentation provided by the insurance carrier with the assumption that the material is true, complete, and correct. If more information becomes available at a later date, an additional report will be considered to update the MSA. Additional information may or may not change the MSA. This MSA is based on medical records, miscellaneous documentation, correspondence, and my personal judgment. The projection of the MSA future expenses are based on Standards of Care and / or the professional judgment of the author of this plan.

This Medicare Set-Aside was prepared for the insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised.

February 12, 2010
 Medicare Set Aside
 Page 3 of 8

SEED CALCULATION	
Medical Amount	\$703,447.96
RX Amount	\$85,169.64
Total WCMSA Amount	\$788,617.60
First Surgery or Replacement Item if Applicable	\$28,976.00
Balance	\$759,641.60
Life Expectancy (Years)	47
Two Years Medical	\$32,325.17
Total Seed Money	\$61,301.17
ANNUITY CALCULATION	
Total WCMSA Amount	\$788,617.60
Total Seed Money	\$61,301.17
Balance of WCMSA	\$727,316.43
Annuity Calculation	\$15,811.23

Introduction:

The file on Mr. William Cooley (aka Claimant) was referred to assess future medical costs for a Medicare Set-Aside Allocation related to the covered injury of September 19, 2006. This report will provide the recommended Medicare Set-Aside allocation and other preliminary information to consider for the settlement proposal.

Records Reviewed:

- Payout Records
- Joe Nick Leigh, M.D.
- James N. Sikes, M.D.
- Geralyn Datz, PhD.
- Keith P. Melancon, M.D.
- Hernando Velez, M.D.
- B. Todd Sitzman, M.D.
- Glenn Ruffin, M.D.
- Y. Susi Folse, M.D.
- South Center Emergency Room
- Andrian Talbot, M.D.
- Steven D. Nowicki, M.D.
- Thomas H. Blake, M.D.

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February 12, 2010
Medicare Set Aside
Page 4 of 8

- Wayne General Hospital Rehabilitation Services

Description of Injury/Medical Care Summary:

The Claimant was employed at Floquip, Inc & Del's Equipment, Inc as a Service Technician. Records indicate the Claimant sustained a left leg injury on September 19, 2006. He was immediately taken to the emergency room and eventually underwent left below the knee amputation. The Claimant was hospitalized for 6 days and then underwent extensive rehabilitation. The Claimant was fitted with prosthesis and had some difficulty with skin infections and sensitivity. Apparently during his recovery he became addicted to his pain medications and underwent suboxone detox treatment. Due to his addiction the surgeon referred the Claimant for pain management.

Following the surgical procedure the Claimant continued to complain of left leg and right hip pain. He was diagnosed with phantom limb pain. The Claimant was placed on several different types of medications for pain and sleep. Due to his severe nature of his pain and deformity he reported difficulty sleeping, depression and anxiety. The Claimant was sent for a psychotherapy evaluation on February 20, 2008 with Dr. Datz. Dr. Datz diagnosed major depression, post-traumatic stress disorder and chronic pain syndrome. Dr. Datz recommended pain management therapy, individual psychotherapy and referred to a psychiatrist for medication management. The Claimant was evaluated by Dr. Ruffin, Psychiatrist on April 28, 2008 and started on Trazodone and Klonopin for depression and sleep. Dr. Ruffin noted that the Claimant has a previous history of depression and failed multiple antidepressant therapy.

Records indicate that the Claimant continued to complain of left leg and right hip pain. The treating physician referred him to Dr. Sitzman, Orthopedic Surgeon for evaluation. Dr. Sitzman diagnosed complex regional pain syndrome and phantom limb pain and performed a left lumbar facet nerve block. The Claimant received decreased pain for one week post facet block. The Records indicated that the Claimant had multiple episodes of skin infections and stump sensitivity and due to this was not wearing his prosthesis consistently. The Claimant follow-up with Dr. Datz on September 19, 2008 and it was noted that the Claimant did not complete his pain management therapy or individual psychotherapy sessions due to transportation and personal problems. It was also noted that the Claimant did not continue with his antidepressant therapy. Dr. Datz recommended continued pain management therapy and individual psychotherapy sessions. The Claimant continued to complain of right hip pain and was diagnosed with right hip arthritis due to loss of weight bearing on left. The Claimant received 2 right hip injections with relief of his pain. The Claimant had a follow-up with Dr. Datz on August 24, 2009 with complaints of increased depression and anxiety. Dr. Datz noted that the Claimant reported suicide attempts x 3, the last being 6-8 months previously. It was noted at the time of this visit he had no suicidal intention and Dr. Datz recommended continued psychotherapy and referred him to psychiatry.

The Claimant presented to James N. Sikes, M.D., Orthopedic Surgery on August 31, 2009. Dr. Sikes diagnosed a small abscess to left stump which did not prevent use of prostheses. Dr. Sikes did not recommend any treatment at that time. The Claimant presented to Joe Leigh, M.D., Pain Management for follow-up care on October 8, 2009. At the time of this visit he reported left leg pain and right hip pain. Dr. Leigh diagnosed right hip pain and performed a right hip injection.

The Claimant presented to Dr. Melanon on February 3, 2010 with continued complaints of intractable left leg pain relating to his below the knee amputation and right hip arthritic condition.

"This Medicare Set-Aside was prepared for the insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised."

February 12, 2010
Medicare Set Aside
Page 5 of 8

The Claimant continues with issues on his stump due to prosthetic wear and causes routine Staph infections along the hair follicles of the stump. This causes issue with his right hip because he is unable to wear the prosthesis. Discussions centered on permanent removal of his hair from the left lower extremity via electrolysis. Other interventions mentioned included a spinal cord stimulator and, at some point a total hip replacement on the right. The hip replacement should be delayed as long as possible and conservative treatment in the form of injections should continue. The Claimant was to follow-up with Dr. Folse for his medication refills.

Pre-Existing/Pre-Injury Conditions:

- Depression

Pre-Existing/Pre-Injury Surgery:

- Bilateral knee surgeries

Industrial Related Medication & Purpose:

- Lyrica for neuropathic pain
- Lortab for pain
- Klonopin for sleep

Non- Industrial Medications:

- None indicated

Concurrent Non-Injury Related Incidental Medical Condition(s):

- None indicated

Treating Provider(s) & Specialty:

- Joe Nick Leigh, M.D., Pain Management
- James N. Sikes, M.D., Orthopedic Surgery
- GERALYN DATZ, PH.D., Psychologist
- Keith Melanon, MD

Current Injury Related Health Conditions:

- Chronic left leg pain
- Right hip pain
- Depression and post-traumatic stress disorder

Current Injury Related Surgery:

Date	Surgeon	Surgical Procedure
September 19, 2006	Dr. Nowicki	Left below knee amputation.

Current Treatment Plan:

Per review of current medical records the Claimant is receiving conservative medical management with medications for pain. His care is being followed by a pain management specialist. His medications include Lyrica 300mg daily, Lortab 10mg and Klonopin 2mg.

"This Medicare Set-Aside was prepared for the Insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised."

February 12, 2010
Medicare Set Aside
Page 6 of 8

Current Medical Status:

Chronic left leg pain, right hip pain, depression and post-traumatic stress disorder.

Projected Treatment Plan:

It is projected the Claimant will require ongoing conservative care for physician follow-up visits; diagnostic tests; physical therapy; prosthesis replacement / maintenance; hip replacement / revisions; spinal cord stimulator implant / replacements and medications.

Anticipated Medicare Covered Services:

- Follow-up Pain Management
- Follow-up Ortho
- Follow-up Prosthetist
- Psychotherapy
- Medications
- Diagnostic Tests
- Prosthesis Maintenance
- Stump revision
- Prosthetic replacement
- Physical therapy
- DME
- Right total hip replacement
- Revision right total hip replacement
- Electrolysis left lower extremity
- Injections right hip
- Trial Spinal Cord Stimulator (SCS)
- Implant (SCS)
- Replacement (SCS)
- Reprogramming (SCS)

******Please see the attached spreadsheet addressing the specific rates, frequency, CPT and total costs. ******

Anticipated Non-Medicare Covered Services:

- Clonazepam 2mg daily

Social Security Disability Status: Unknown at the time this document was created.

Medicare Status: Unknown at the time this document was created

Medicare Lien Information: Unknown at the time this document was created.

Non-Medicare Covered Amount: \$1,460.76

Medicare Allocation Administration: To Be Determined

"This Medicare Set-Aside was prepared for the insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised."

February 12, 2010
Medicare Set Aside
Page 7 of 8

Summary:

The Claimant is status post traumatic left below knee amputation with chronic left leg pain, right hip pain, depression and post-traumatic stress disorder. Post surgery he was treated conservatively with medications and physical therapy with no significant improvement of his symptoms. He continues to complain of chronic left leg and right hip pain. His current medications provide symptomatic pain relief. The Claimant will require further surgical intervention in the form of stump revisions for each prosthetic replacement, electrolysis left lower extremity, total hip replacement and spinal cord stimulator implant. **Future treatment outlined in the attached spreadsheet.**

Life Expectancy Issue:

Mr. William Cooley has a life expectancy of 47.4 years rounded to 47 years based on a median rated age of 32 years, as provided by documents from John Hancock 35; Liberty Life 38; MetLife 32; New York Life 31; Pacific Life 30; Prudential 29; Symetra 37. This impaired Life expectancy is according to the CDC National Vital Statistics Reports, Volume 56, Number 9, revised December 28, 2007, Table 1 for total population. ***** All rated ages obtained on claimant have been included *****

RECOMMENDATION FOR MSA ALLOCATION:

Based on the available medical and financial records, it is our recommendation that a Medicare Set-Aside allocation in the amount noted on the cover sheet be included in the settlement documents. The recommended allocation may be recalculated and/or reduced upon receipt of additional medical information.

METHOD OF ADMINISTRATION:

The Federal Code of Regulation does not mandate what type of administration for the MSA account should be used, if the claimant has not been assigned a representative payee by the Social Security Administration; however, the duties and obligation of the administrator are the same for either the professional or self administrator.

The funds of the Medicare Set-Aside account must be placed in a separate interest bearing account. The administrator of the MSA must forward annual accounting summaries concerning the expenditures of the arrangement to the contractor responsible for monitoring **Mr. Cooley's** case. The contractor responsible for monitoring **Mr. Cooley's** case is then responsible for verifying that the funds allocated to the set-aside arrangement were expended on medical and prescription drug services for Medicare covered services only. Additionally, the contractor responsible for monitoring the Claimant's case will be responsible for ensuring that Medicare makes no payments related to the accident until the MSA account has been properly exhausted.

Mr. Cooley must be a Medicare beneficiary and enrolled in Medicare Part B to withdraw funds from the MSA Set-Aside account. The MSA account may only be used to pay for medical services and prescription drug treatment related to the work injury that would normally be paid by Medicare.

The treating providers must agree to continue accepting fee reimbursement per Workers Compensation Usual and Customary Fee Schedule guideline. This WCMSA arrangement cannot be charged more than what would normally be payable under the WC plan. All entities and

"This Medicare Set-Aside was prepared for the insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised."

February 12, 2010
Medicare Set Aside
Page 8 of 8

individual that accept WC payments related to **Mr. Cooley's 2006** work related medical care will agree not to charge the arrangement more than what the WC plan would normally pay.

REQUIRED MSA PROPOSAL DOCUMENTATION:

We recommend consideration of the following items is addressed in the settlement:

- Breakdown the categories of the settlement to distinguish between the amounts of money dedicated to past medical expenses, indemnity, MSA allocation, non-Medicare medical expenses, attorney fees and costs
- Specify that the settlement is for future medical treatment and prescription drug benefits and /or a compromise between the carrier and claimant
- Specify that the MSA account will be placed in a separate interest-bearing account, exclusively for "**Mr. William Cooley Medicare Set-Aside Account**", that is insured by the FDIC, in which funds for future medical expenses and future prescription drug costs that would otherwise be covered under Medicare be placed in this account. A copy of the documents establishing the Claimant's Medicare Set-Aside Account will need to be sent to CMS within 30 days of the settlement award being disbursed to the Claimant.
- Specify administrator responsible for control and documentation of proper expenditures from the Medicare Set-Aside account. The address of the administrators is included in settlement document. The administrator of the account will be responsible for keeping records of payments made from the account, and must forward annual accounting summaries of fund transactions along with the status of the account to the appropriate Medicare contractor. One-time and recurrent administrative fees/expense for administration of the Medicare Set-Aside arrangement and/or attorney costs specifically associated with establishing the MSA arrangement cannot be charged to the set-aside arrangement.
- Provide documentation that the Claimant fully understands the requirements for self-administration of the MSA account and the consequences of non-compliance (loss of Medicare benefits for injury-related claims), should the Claimant choose to self-administer this MSA account.
- Provide clarification of what party is responsible for any outstanding conditional payments (past liens) identified by Medicare at a later date.
- It is recommended that specific language be included in the settlement documents, which address the MSA allocation and the fact the carrier is not shifting any burden to Medicare by virtue of this settlement.

MSA REQUIRED ATTACHMENTS:

The following documents will be attached prior to submission of this MSA to CMS.

1. Medicare release of information
2. Social Security release of information
3. Medical records for the past two-three years
4. Medical payout for the past two-three years
5. Prescription drugs payout history from the injury date through the date of submission
6. Proposed settlement agreement
7. Medicare Set-Aside Medical Cost Projection
8. Rated age confirmations
9. Copy of the beneficiary's Medicare Part A & B (if appropriate)

"This Medicare Set-Aside was prepared for the insurance carrier based on medical records furnished for review. Should new information become available or there is a change in condition this MSA should be revised."

Anticipated Medicare Costs - Medical

Claimant: William Cooley
 SSN: 427-49-2872
 Date of Injury: 06/19/2008
 Life Expectancy: 47 years
 Date of Report: 01/20/2010
 State of Jurisdiction: Mississippi
 Costs Based on: Fee Schedule



Future Medical Need of the type normally covered by Medicare	CPT/Code	Frequency & Duration of Need	Per Unit Cost	Number of units / year in years of occurrence	Annual Cost in Years Occurring	Total Number of Years Occurring	Total Cost Over Life Expectancy	Total Cost
Physician Evaluation - Pain Management	99214	Every 3 Months for LE	\$68.00	4.0	\$272.00	47.0	\$12,764.00	
Physician Evaluation - Orthopedics	99213	2 X yearly over LE	\$78.18	2.0	\$152.32	47.0	\$7,159.04	
Outpatient Psychotherapy	90804	Every 3 Months for LE	\$119.00	4.0	\$476.00	47.0	\$22,372.00	
Prosthetist visits	99213	2 X yearly over LE	\$78.18	2.0	\$152.32	47.0	\$7,159.04	
X-rays of left leg	73592	1 X every 3 years	\$53.90	1.0	\$53.90	15.0	\$808.50	
MRI of left leg	73721	1 X every 7 years	\$1,084.30	1.0	\$1,084.30	6.0	\$6,505.80	
Stump revision	50575, 5200, 53310	9 X over LE	\$5,712.00	1.0	\$5,712.00	9.0	\$51,408.00	
Left below knee prosthesis	L5300, L5602, L5637, L5918, L5940, L5829, L5845, L5847, L5980, L598	1 X every 5 years	\$13,515.00	1.0	\$13,515.00	9.0	\$121,835.00	
Prosthesis maintenance	All inclusive	1 X yearly over LE	\$1,000.00	1.0	\$1,000.00	47.0	\$47,000.00	
Multiply stump socks	L8420	12 X yearly over LE	\$20.29	12.0	\$243.48	47.0	\$11,443.56	
Physical therapy evaluation for stump revision	97001	9 X over LE	\$85.02	1.0	\$85.02	9.0	\$765.18	
Physical therapy for stump revision	97110	54 X over LE	\$69.96	6.0	\$419.76	9.0	\$3,777.84	
Rolling walker	E0143	4 X over LE	\$59.00	1.0	\$59.00	4.0	\$236.00	
Manual wheelchair	E1057	3 X over LE	\$420.00	1.0	\$420.00	4.0	\$1,680.00	
Right hip cortisone injection	All inclusive	10 X over LE	\$125.00	1.0	\$125.00	10.0	\$1,250.00	
Right total hip replacement	All inclusive	1 X over LE	\$2,400.00	1.0	\$2,400.00	1.0	\$2,400.00	
Right total hip revision (approx 2022)	All inclusive	1 X every 12 years over LE	\$18,500.00	3.0	\$55,500.00	3.0	\$188,500.00	
Physical therapy (post-op total hip replacement/revision)	All inclusive	18 sessions after each surgery	\$84.00	18.0	\$1,512.00	4.0	\$6,048.00	
Electrolysis left lower extremity	All inclusive	1 X over LE	\$200.00	6.0	\$1,200.00	1.0	\$1,200.00	
Trial Spinal Cord Stimulator	All inclusive	1 X over LE	\$8,321.00	1.0	\$8,321.00	1.0	\$8,321.00	
Permanent Implant Spinal Cord Stimulator	All inclusive	1 X over LE	\$28,976.00	1.0	\$28,976.00	1.0	\$28,976.00	
Replacement Implant Spinal Cord Stimulator	All inclusive	1 X every 7 years	\$28,976.00	1.0	\$28,976.00	6.0	\$173,856.00	
Reprogramming Spinal Cord Stimulator	All inclusive	2 X yearly over LE	\$195.00	2.0	\$390.00	47.0	\$18,350.00	
Comprehensive Metabolic Panel	80053	1 X yearly over LE	\$39.00	1.0	\$39.00	47.0	\$1,833.00	
			\$0.00	0.0	\$0.00	0.0	\$0.00	
Total Medical Cost							\$703,447.86	

Anticipated Medicare Costs - Pharmacy

Claimant: William Cooley
SSN: 427-49-2872
Date of Injury: 09/19/2006
Life Expectancy: 47 years
Date of Report: 01/20/2010
State of Jurisdiction: Mississippi
Costs Based on: AWP



Prescription Drug Name	Unit Form (cap, tablet, patch)	Prescribed Strength	Prescribed Frequency (PRN, per day)	Qty Per Rx	Cost Per Rx	Rx's per Year	Annualized Cost	Years Occurring	Total Cost
Lyrica 00490003860	Tablet	150mg	2/day	60	\$123.75	12	\$1,485.00		
APAP/Hydrocodone (Lortab) 00591054001	Tablet	500/10mg	4/day	120	\$27.28	12	\$327.12		
				0	\$0.00	0	\$0.00		
							\$1,812.12		\$85,169.64

		Total Pharmacy Cost:	\$85,169.64
Recommended Allocation:	\$788,617.60	Total Medical Cost:	\$703,447.96

The WCMSA Cost Projection is composed of future medical and prescription drug needs of the type normally covered by Medicare over the claimant's lifetime. Projections are based on review of medical records available at the time of this report and current worker's compensation fee schedule in the state of jurisdiction. No consideration is given for changes in the worker's compensation fee schedule value that may occur in the future.

Anticipated Non-Medicare Costs

Claimant: William Cooley
SSN: 427-49-2872
Date of Injury: 09/19/2008
Life Expectancy: 47 years
Date of Report: 01/20/2010
State of Jurisdiction: Mississippi
Costs Based on: AWP



<i>Future Medical Needs not covered by Medicare</i>	<i>Frequency & Duration of Need</i>	<i>Per Unit Cost</i>	<i>Number of units needed per year in years of occurrence</i>	<i>Annual Cost in Years Occurring</i>	<i>Total Number of Years Occurring</i>	<i>Total Cost Over Life Expectancy</i>
Clonazepam 2mg #30 00591074801	1 x daily	\$2.58	12.0	\$31.08	47.0	\$1,460.76
		\$0.00		\$0.00	0.0	\$0.00
		\$0.00		\$0.00	0.0	\$0.00
Recommended	\$1,460.76					

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

WILLIAM T. COOLEY, JR.

PLAINTIFF

VS.

CIVIL ACTION NO. 4:08-CV-00035-TSL-LRA

DENBURY ONSHORE, LLC

DEFENDANT

AND

AMERICAN INTERSTATE INSURANCE COMPANY

INTERVENOR

**JOINDER OF THIRD PARTIES TO PETITION
FOR AUTHORITY TO SETTLE UNDER PROVISIONS OF SECTION 9(i)**

COMES NOW the Intervenor, Carrier and Employer AMERICAN
INTERSTATE INSURANCE COMPANY, by and through its' undersigned attorney of
record, and hereby join in the relief prayed for in the Petition for Authority to Settle
Under Provisions of Section 9(i) filed by the Plaintiff.

RESPECTFULLY SUBMITTED, this 8th day of April, 2010.

AMERICAN INTERSTATE INSURANCE
COMPANY

BY: //Phillip W. Jarrell//
PHILLIP W. JARRELL

PHILLIP W. JARRELL (MS BAR NO. 3007)
DUKES, DUKES, KEATING & FANCA, P.A.
2909 13TH STREET, SIXTH FLOOR
POST OFFICE DRAWER W
GULFPORT, MS 39502
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FAX: (228) 863-2886

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

WILLIAM T. COOLEY, JR. **PLAINTIFF**

VS. **CIVIL ACTION NO. 4:08CV35TSL-LRA**

DENBURY ONSHORE, LLC **DEFENDANT**

AND

AMERICAN INTERSTATE INSURANCE COMPANY **INTERVENOR**

AGREED ORDER AND FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE

THIS DAY THIS CAUSE having come on for hearing before the Court on the joint *ore tenus* Motion of the parties, by and through counsel, in the above-styled and numbered cause of action to enter a Judgment of Dismissal with Prejudice as to all claims, including those contained in the Complaint filed by Plaintiff and the Complaint in Intervention by American Interstate Insurance Company, and the Court being fully advised in the premises, finds that the Motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above-styled and numbered cause against Denbury Onshore, LLC, in tort by the Plaintiff and by the Complaint for Intervention asserting a statutory lien filed by the Intervenor, be and the same are hereby fully and finally dismissed with prejudice, with the parties to bear their own costs.

SO ORDERED AND ADJUDGED, this the 9th day of April, 2010.

/s/Tom S. Lee
UNITED STATES DISTRICT COURT JUDGE

Approved By:

s//Paul Richard Lambert

PAUL RICHARD LAMBERT, Esquire
Counsel for Plaintiff

s//Roger C. Riddick

ROGER C. RIDDICK, Esquire
Counsel for Defendant, Denbury, Onshore, LLC

s//Phillip W. Jarrell

PHILLIP W. JARRELL, Esquire
Counsel for Intervenor, American Interstate
Insurance Company

PAUL RICHARD LAMBERT, PLLC

ATTORNEY AT LAW

MAILING ADDRESS:
119 HARDY STREET
HATTIESBURG, MS 39401

TELEPHONE (601) 544-1215
FAX (601) 544-1448
email: rick_lambert@comcast.net

July 7, 2010

Judge Virginia Wilson Mounger
Administrative Judge
Attention: Ms. Faye Sloan Black, Legal Assistant
Mississippi Workers' Compensation Commission
Post Office Box 5300
Jackson, MS 39296-5300

RECEIVED

JUL 08 2010

M. W. C. C.
DOCKET ROOM

24/HH

RE: William T. Cooley, Jr. v. FLOQUIP, Inc. and American Interstate Ins. Co.
MWCC No. 0609955-J-~~7852~~ 7952
Date of Accident: September 19, 2006

Dear Judge Mounger:

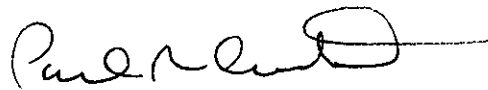
Please be advised that the above referenced third party case has been settled. As per your legal assistant's instructions, I am enclosing a copy of the settlement documents which were filed in the **United States District Court, Southern District of Mississippi, Eastern Division, Civil Action No. 4:08-CV-00035-TSL-LRA, William T. Cooley, Jr. vs. Denbury Onshore, LLC and American Interstate Insurance Company** on April 8, 2010. Please refer to the following documents:

1. Petition for Approval of Third Party Settlement;
2. Joinder of Third Parties to Petition for Authority to Settle Under Provisions of Section 9(i);
3. Order Approving Settlement; and
4. Agreed Order and Final Judgment of Dismissal with Prejudice.

Should you have any questions or need any further documentation, please do not hesitate to contact me. Thank you for time and assistance in this matter.

With kind regards, I am

Very truly yours,



PAUL RICHARD LAMBERT

PRL/lh
Enclosures

cc: Phillip W. Jarrell, Esquire
Roger Riddick, Esquire
John W. Lee, Jr., Esquire
Mr. William T. Cooley, Jr.