

## PROCEDURE 469 v.2

### ALL CLAIMS: PROCESSING INCOMPLETE CLAIMS

Section 4.3.7 of the Settlement Agreement provides:

The Settlement Program, including the Claims Administrator and Claims Administration Vendors, shall work with Economic Class Members (including individual Economic Class Members' counsel and Class Counsel) to facilitate Economic Class Members' assembly and submission of Claims Forms, including all supporting documentation necessary to process Claim Forms under the applicable Claims Processes. The Settlement Program, including the Claims Administrator and Claims Administration Vendors, shall use its best efforts to provide Economic Class Members with assistance, information, opportunities and notice so that the Economic Class Member has the best opportunity to be determined eligible for and receive the Settlement Payment(s) to which the Economic Class Member is entitled under the terms of the Agreement.

Consistent with this provision, the Claims Administrator has implemented an Incompleteness process that provides claimants with two written Notices (an initial Incompleteness Notice and a Follow-Up Incompleteness Notice) informing the claimant about the documents required to complete the claim submission, before the Claims Administrator denies the claim for insufficient documentation. However, in an effort to substantially conclude the administration of the Settlement Program, the deadlines associated with responding to Incompleteness Notices and Follow-Up Incompleteness Notices will be modified pursuant to the below.

**A. Incompleteness Process.** The Claims Administrator provides claimants with several different opportunities to submit all documents required by the Settlement Agreement. First, the claimant receives written notification that the claim is Incomplete in the form of an Incompleteness Notice. Second, if the claimant fails to cure the incompleteness, the claimant receives a Follow-Up Incompleteness Notice. Third, if the claimant does not cure the incompleteness after a Follow-Up Incompleteness Notice, the Claims Administrator will issue an Incompleteness Denial Notice.

#### **1. First Written Notification of Incompleteness.**

**(a) Preliminary Incompleteness Notice for Individual Economic Loss Claims:** When all Document Categorization is complete for an Individual Economic Loss Claim, but prior to a full review of the claim, the Claims Administrator runs an algorithm to determine whether the claimant has submitted the minimal documents necessary for the Claims Administrator to review the claim. If the algorithm determines any of these documents are missing, the Claims Administrator issues a Preliminary Incompleteness Notice for Individual Economic Loss Claims ("Preliminary Incompleteness Notice") without performing a full review of the claim.

The Preliminary Incompleteness Notice explains that the Claims Administrator will not review the claim until the claimant submits additional documents. The Preliminary Incompleteness Notice explains what is missing from the claim, provides

tips for how to obtain the documents or information, and explains that the Claims Administrator may, after a full review of the claim, later find the claim incomplete for other reasons.

**(b) Incompleteness Notice:** After a claim of any type enters Review, the Claims Administrator uses the Incompleteness Notice to provide written notification of a review result of Incomplete. The Incompleteness Notice informs the claimant that the Claims Administrator cannot process the claim any further without the documents enumerated in the Notice and provides tips for how to obtain the required documents or information. The Notice states that the claimant has 15 days to submit the requested documents.

- 2. Second Written Notification of Incompleteness – Follow-Up Incompleteness Notice:** If a claimant fails to respond to the first written notification of Incompleteness, or if the claimant responds but the claim is still Incomplete, the Claims Administrator issues a Follow-Up Incompleteness Notice. If the claimant received a Preliminary IEL Incompleteness Notice and never responded, then the Claims Administrator reviews the IEL claim before issuing the Follow-Up Incompleteness Notice, because the Preliminary IEL Incompleteness Notice was issued based on an algorithm instead of a full review.

The Follow-Up Incompleteness Notice explains what documents the claim is missing and provides tips for how to obtain the documents or information. The Notice states that the claimant has 15 days to submit the requested documents or request a deadline extension.

In rare situations, after a claimant responds to a Follow-Up Incompleteness Notice, if the claim is no longer Incomplete for any Incompleteness Reason that appeared on the Follow-Up Incompleteness Notice but is Incomplete for a new reason that did not appear on the prior Notice, then the Claims Administrator issues a second Follow-Up Incompleteness Notice to inform the claimant about the new Incompleteness.

- 3. Third Written Notification of Incompleteness – Incompleteness Denial Notice:** When a claimant fails to submit adequate documents before the expiration of the deadline to respond to the Follow-Up Incompleteness Notice, the Claims Administrator issues an Incompleteness Denial Notice. The Incompleteness Denial Notice informs the claimant that the Claims Administrator denied the claim because the claimant failed to respond adequately to the Incompleteness Notice and provides tips for how to obtain the required documents or information. The Notice states that the claimant has 30 days to request Reconsideration of the denied result. If the claimant does not request Reconsideration or attempts to request Reconsideration after the deadline for doing so has passed, the Notice indicates the Claims Administrator will close the claim.

**(a) Reconsideration.** Claimants may request Reconsideration of an Incompleteness Denial Notice within 30 days after the Claims Administrator issues an Incompleteness Denial Notice. Claimants may submit additional documents with the Reconsideration Request. The Claims Administrator will review the claim again to determine whether the claimant has submitted all required documents. If the Claims Administrator determines the claim is complete, it will review the claim and issue a

Notice informing the claimant of the result of that review. If the Claims Administrator determines the claim is still incomplete, it will issue a Post-Reconsideration Incompleteness Denial Notice. The claimant will have 20 days after the date of the Post-Reconsideration Incompleteness Denial Notice to request an Appeal to the Documentation Reviewer. If the claimant does not request Appeal or attempts to request Appeal after the deadline for doing so has passed, the Notice indicates the Claims Administrator will close the claim.

**(b) Appeal.** Pursuant to Section 6.1.1.1 of the Settlement Agreement, claimants may request an Appeal to the Documentation Reviewer within 20 days after the Claims Administrator issues a Post-Reconsideration Incompleteness Denial Notice. Claimants may submit additional documents with the Appeal Request. The Documentation Reviewer will review the claim again to determine whether the Claims Administrator erred in denying the claim for insufficient documentation. If the Documentation Reviewer determines there was error in the denial, the Claims Administrator will review the claim again and issue a Notice informing the claimant of the result of that review. If the Documentation Reviewer does not find error in the denial, and the claimant has not cured the Incompleteness, the Claims Administrator will issue a Post-Appeal Incompleteness Denial Notice and will close the claim.

**B. Issuing Notices.** All of the Notices described in Section A above are posted on the secure DWH Portal for claimants and/or their attorneys who registered with the Settlement Program to receive communication and Notices that way. Alternatively, the Notices described in Section A are issued by regular mail for claimants and/or their attorneys who prefer not to use the DWH Portal. Each day that the Claims Administrator posts notices to the secure DWH Portal, we send an email to the Law Firm or Pro Se claimant that informs the Law Firm or claimant that we have posted new Notice(s) to the Portal. The email lists the Claimant ID, Claimant Name, Claim ID, Claim Type and Notice Type for any Notices posted that day. The email also includes instructions about how to view Notices and track a claimant's status on the Portal. If the Pro Se claimant or Law Firm does not view the Notice within 30 days, then the Claims Administrator sends another email explaining that the claimant or firm has had one or more Notices posted to the Portal for more than 30 days that they have not yet viewed. The email contains the same information and instructions as the previous email.

**C. Claimant Outreach.** On 10/8/12, the Claims Administrator began to reach out by phone and email to Pro Se claimants who had been issued Incompleteness Notices. In addition, the Claims Administrator works with Law Firms each day through assigned Law Firm Contacts to help those firms submit complete claims and track the status of their claimants. The Settlement Program also has reached out to Law Firms with large numbers of incomplete claims to ensure those firms fully understand the requirements of the Settlement Agreement. These Outreach efforts are ongoing and occur in conjunction with the formal Incompleteness Notices described above.

**D. Conclusion.** The Claims Administrator has implemented the Incompleteness Process described in this memo.