

04-1239-CD
LOU ANN TYLWALK VS PRUDENTIAL INSURANCE CO, et al

Lou Ann Tylwalk vs Prudential ins et al
2004-1239-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK, :
 :
 Plaintiff :
 :
 : No. 04 - ¹²³⁹ - C.D.
 :
 vs. :
 :
 : COMPLAINT
 :
 PRUDENTIAL INSURANCE COMPANY and :
 :
 RELIANT ENERGY, :
 :
 Defendants :

Filed on Behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

^(E.G.)
FILED

3cc Amy
01/3:04/04
AUG 12 2004
1cc Staff
Amy pd. 85.00

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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 :
 Defendants :

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

(814) 765-2641 Ex 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK, :
 :
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 RELIANT ENERGY, :
 Defendants :

COMPLAINT

AND NOW comes Plaintiff Lou Ann Tylwalk, by and through her attorneys, Belin & Kubista, and files the following complaint and in support thereof avers as follows:

1. That Lou Ann Tylwalk is an individual who resides at 119 South High Street, Clearfield, Pennsylvania 16830 ("Tylwalk").

2. That Prudential Insurance Company of America is an insurance company doing business in the State of Pennsylvania which maintains an office with regard to disability claims at P.O. Box 482, Livingston, New Jersey 07039 ("Prudential").

3. That Reliant Energy is a company which does business in the State of Pennsylvania and which operates a power plant in the Village of Shawville, Clearfield County, Pennsylvania ("Reliant").

4. That Lou Ann Tylwalk was an employee of Reliant Energy until she suffered an accident unrelated to her employment on August 24, 2001.

5. That at the time of her injury, Reliant Energy provided among its benefits a group life insurance policy providing for total disability benefits payable to Lou Ann Tylwalk for total and permanent disability under Group Policy G-90452.

6. That as a result of her accident, Lou Ann Tylwalk is totally and permanently disabled.

7. That said Group Policy provided that in the event an employee is totally and permanently disabled they are to receive \$20,000.00 of their group life insurance paid to them in one lump sum.

8. That said policy also provides that her group life insurance is to continue during the total disability.

9. That Lou Ann Tylwalk applied for her benefits under the plan to the administrator of the group life insurance policy, Christopher J. Caruso of Prudential who issued an opinion on September 22, 2003, denying her benefits for the \$20,000.00 and provided for the continuance of her group life insurance but provided for the reduction of the amount of said

policy. A copy of said decision is hereto attached and marked Exhibit "A."

10. That on November 26, 2003, Lou Ann Tylwalk appealed from said decision by letter which is dated November 26, 2003, which is hereto attached and marked Exhibit "B."

11. That on December 22, 2003, Umbalita Mingo, Associate Disability Manager of Prudential, issued a decision upholding their decision to deny the claim. A copy of said decision is hereto attached and marked Exhibit "C."

12. That on April 5, 2004, Lou Ann Tylwalk appealed from said decision by letter which is dated April 5, 2004, which is hereto attached and marked Exhibit "D."

13. That on June 1, 2004, Minnie Titus-Glover, Manager, Claim Operations of Prudential, issued a decision upholding their decision to deny the claim. A copy of said decision is hereto attached and marked Exhibit "E."

14. That the record submitted to Prudential established that Lou Ann Tylwalk is totally and permanently disabled within the meaning of the policy.

15. That the benefits provided her are governed by the United States Employee Retirement Income Security Program, 29 U.S.C.A. § 1101 et seq. ("ERISA").

16. That under § 1132(a)(1)(B) of ERISA, Lou Ann Tylwalk may bring a civil action directly against the insurance company and employer to recover benefits due her under the terms of the plan, to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan.

17. That the Court of Common Pleas of Clearfield County, Pennsylvania, has jurisdiction of this action under 29 U.S.C.A. § 1132(e)(1) of ERISA which provides that state courts of competent jurisdiction have concurrent jurisdiction of actions brought under paragraph (a)(1)(B).

18. That Prudential and Reliant are indebted to Tylwalk in the amount of \$20,000.00 pursuant to the plan and Group Policy G-90452.

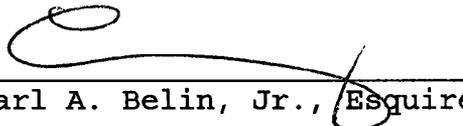
19. That pursuant to 29 U.S.C.A. § 1132(g) of ERISA, Lou Ann Tylwalk seeks attorney's fees and costs in connection with this action.

20. That the amount sought hereunder does not exceed the arbitration limits under Rule 1301 of the Clearfield County Civil Rules.

WHEREFORE, Lou Ann Tylwalk demands judgment from the Defendants, Prudential and Reliant, in the amount of

\$20,000.00, together with interest thereon from August 24, 2001, and reasonable attorney's fees and costs.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire

Prudential  Financial

Christopher J Caruso
Disability Claims Manager

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

September 22, 2003

Phone: (800) 524-0542 **Ext:** 7111
Fax: (973) 548-7530
Hours: 7:00am - 3:05pm EST

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Ms. Tylwalk:

We have completed our evaluation of your claims for the continuation of your Group Life Insurance during Total Disability and Benefits Payable during Total and Permanent Disability under Group Policy G-90452 issued to Reliant Energy. This letter will outline our decision.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Provisions

In order to be eligible for the continuation of your group life insurance you had to become Totally Disabled while a covered individual and less than age sixty.

An Employee is "Totally Disabled" when they are not engaged in any occupation and if the employee is completely unable, due to sickness or injury or both, to engage in any occupation, which that person is reasonably fitted by education, training, or experience.

In accordance with the group policy provisions, if an employee is Totally and Permanently Disabled, they will have \$20,000.00 of their basic group life insurance paid to them in one lump sum.

"Totally and Permanently Disabled" exists only while the Employee is totally disabled as described above and that disability is such that the Employee will continue to be unable due to sickness or injury or both, to engage in any occupation, which the Employee is reasonably fitted by education, training, or experience, *for the entire remainder of the Employee's lifetime.*

Exhibit "A"

You have a right to appeal this decision. If you elect to do so, your appeal must be made in writing by you or your authorized representative. Your appeal must be submitted within 180 days of the date of your receipt of this letter. Your appeal should contain:

- the reasons that you disagree with our determination
- your name, policy number and social security number (or claim number)
- medical evidence or documentation to support your position

Evidence or documentation may include but not be limited to such materials as:

- copies of therapy treatment notes
- any additional treatment records from physicians
- actual test results (e.g. EMG, MRI)

You may submit with your appeal any written comments, documents, records and any other information relating to your claim.

The written appeal should be submitted to:

Ms. Umbalita Mingo; Team Manager
The Prudential Insurance Company Of America
Waiver of Premium Division
PO Box 482
Livingston NJ 07039

A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Appeals Review Unit expects to render a decision shall be furnished to you within the initial 45-day period. However, if Prudential requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

If your appeal is denied, you may seek a second appeal. The same conditions and time frames for the first appeal will apply to the second appeal.

If our decision to deny benefits is upheld at the second level of appeal, you may file a voluntary third appeal. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal. The same time frame for the first appeal will apply to the third appeal.

After completion of the first two levels of appeal, you may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the above address or call (800) 524-0542, extension 7111. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,

Christopher J Caruso
Disability Claims Manager

Prudential  **Financial**

Christopher J Caruso
Disability Claims Manager

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

September 29, 2003

Phone: (800) 524-0542 **Ext:** 7111
Fax: (973) 548-7530
Hours: 7:00am - 3:05pm EST

Ken Urgolites
Reliant Energy
1001 Broad St.
Johnstown, PA 15907

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Mr. Urgolites:

We have completed our review of Lou Ann Tylwalk's claim for the continuation of her Group Life Insurance during Total Disability and Benefits Payable during Total and Permanent Disability through G-90452 issued to Reliant Energy.

We have approved her claim for the continuation of her group life insurance in the amount of \$89,000.00, effective July 10, 2003. However, we have determined that she is not eligible for Benefits during Total and Permanent Disability and have denied her claim for this benefit. A detailed letter of explanation has been sent to Lou Ann Tylwalk, along with instructions on our appeal process, should she disagree with our decision.

Please advise Lou Ann Tylwalk of the status of her Group Life Insurance.

Please do not hesitate to contact us if you have any questions regarding this matter, you may write to us at the above address or call (800) 524-0542, extension 7111.

Sincerely,

Christopher J Caruso
Disability Claims Manager

November 26, 2003

Christopher J. Caruso
Disability Claims Manager
The Prudential Insurance Company
Of America
Waiver of Premium
P.O. Box 482
Livingston, NJ 07039

In re: Your letter dated September 22, 2003 denying my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy

Dear Mr. Caruso:

I do hereby appeal from your decision regarding my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy.

I disagree with your determination for the following reasons: The reports in this case indicate I have suffered a traumatic head and face injury, a traumatic brain injury resulting in a cognitive disorder, mood disorder, and depression, as a result of which I am totally and permanently disabled. In addition to my injuries I am currently taking the following medications:

80 mg oxycontin 2 x day - pain killer
15 mg buspar 2 x day - antidepressant
150 mg wellbutrin 2 x day - antidepressant
100 mg peri-colace 2 x day - to prevent constipation
150 mg trazodone 1 x day antidepressant and sleep aid.

Exhibit "B"

Christopher J. Caruso

November 26, 2003

2

As a result of my injuries and current medications I am unable to work. The Commonwealth of Pennsylvania has reviewed my injuries and has paid the statutory limits for my injuries. None of my doctors or psychologists have indicated I will be able to return to work at any time in the future.

The suggestion in your decision that I can return to work has been taken out of context of the report of my psychologist, Ronald Lingle. The entire statement is as follows:

"Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life." (emphasis added)

The entire statement recognizes my injuries are permanent and that my disability remains total based on those injuries.

My name, policy number and claim number is as follows:

Name and Address: Lou Ann Tylwalk
119 South High Street
Clearfield, PA 16830

Policy Number: G-90452

Claim Number: 10469216.

The medical evidence I am submitting is as follows:

1. Report and Opinion of Dr. Guy Catone;
2. Report and Opinion of Dr. Ronald Lingle;
3. Social Security Disability Record.

Christopher J. Caruso

November 26, 2003

3

Should you require any further information, please direct your request to my authorized representative:

Carl A. Belin, Jr., Esquire
Belin & Kubista
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6446

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0002 6639 6446

Postage \$ _____
 Certified Fee _____
 Return Receipt Fee (Endorsement Required) _____
 Restricted Delivery Fee (Endorsement Required) _____
 Total Postage & Fees \$ _____

CLEARFIELD PA 16830
 Postmark
 NOV 26 2003
 USPS

Sent To
 Christopher J. Caruso, Disability Claims Mgr.
 Prudential Ins. Co. Waiver of Premiums
 P.O. Box 482
 Livingston, NJ 07039

PS Form 3800, January 2001
 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Christopher J. Caruso
 Disability Claims Manager
 Prudential Insurance Co.
 Waiver of Premium
 P.O. Box 482
 Livingston, NJ 07039

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) _____ B. Date of Delivery _____

C. Signature
 X *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below: _____

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from) 7001 2510 0002 6639 6446

PS Form 3811, July 1999 Domestic Return Receipt 102595-99-M-1789

PITTSBURGH FACIAL AND ORAL SURGERY

RECEIVED

MAY - 8 2003

Dr. Guy A. Catone DDS, DMD

May 5, 2003

RE: Lou Ann Tylwalk

Diplomat, American Board of Oral and Maxillofacial Surgery
Fellow, American Academy of Cosmetic Surgery
Fellow, American Association of Oral and Maxillofacial Surgeons

Carl A. Belin Jr.
Belin & Kubista
Attorneys at Law
15 North Front Street
PO Box 1
Clearfield, PA 16830

Dear Mr. Belin:

Subject: Medical report

This is in response to your letter of April 28, 2003 concerning the injuries sustained by Lou Ann Tylwalk and the surgery used to address these injuries. Lou Ann Tylwalk at the time of the injury was a 42-year-old woman who was camping in a forest when a tree branch fell and struck her in the face and skull. She suffered a closed head injury, multiple facial skeletal fractures, a fractured right frontal bone and supraorbital rim, nasal bone fractures, naso-orbital ethmoidal fractures, bilateral zygomaticomaxillary complex fractures, blow out fracture of the right orbital floor, Le Fort I maxillary fracture, fracture of the right coronoid process of the mandible, and facial and scalp lacerations and abrasions. She was taken via Life Flight at Allegheny General Hospital and admitted to the Shock Trauma Unit. After initial resuscitation, her facial/skull injuries were surgically addressed.

The patient was taken to the operating room on August 31, 2001 and at that time a bicoronal flap of the skull was developed and the right-sided Le Fort fracture was repaired; the right zygomatic bone body and arch fracture repaired along with repair and reduction of the right supraorbital fracture of the frontal bone. A Killian ("open sky") midline approach was made to repair multiple nasal bone fractures with reconstruction of the nasal bridge with Leibinger mesh. The patient was brought back to the operating room on September 10, 2001 and the blow out fracture of the left orbital floor and blow in fracture of the right orbital floor were repaired. The patient tolerated the anesthesia and surgery well and was discharged to home to be followed up regularly.

As a result of postoperative follow up visits it was noted that the patient had difficulty opening her mouth. This was due to an extra-articular ankylosis of the right jaw joint secondary to a fracture of the coronoid process on this side. She was subsequently readmitted on November 02, 2001 and a right coronoidectomy was performed. She progressed well after surgery and was able to open her mouth to near normal levels and be able to masticate food and articulate words quite well.

Monroeville•Oakland North Side•Baden

West Penn Allegheny Health System Forbes Regional • Professional Office Bldg. 1 • Suite 104 •
2566 Haymaker Road

Monroeville, Pennsylvania 15146-3594

Telephone: (412) 374-9030 Fax: (412) 373-9437

She did well after the surgery in November of 2001. There was some residual enophthalmos of the right orbit and a decreased width of the left palpebral fissure. She also experienced significant post-traumatic resorption of the upper jaw. She was regularly observed in the Maxillofacial Unit at Allegheny General Hospital until February 2002. On February 4, 2002 she was admitted once again to Allegheny General Hospital. At that time the lack of bone in the upper jaw was managed by grafting corticocancellous bone from the posterior iliac crest (right) to the maxillary sinuses bilaterally. It was not possible to place dental implants into the upper jaw because of the lack of bone to stabilize the dental implants needed during the process of osseousintegration of these fixtures.

The patient was once again followed in the outpatient offices at Allegheny General Hospital. During this time period remodeling of the bone in the right malar region caused an asymmetry of the face so that the right face appeared to be flattened. The right and left eyebrows appeared to be ptotic (drooping), there were adhesions at the right frontozygomatic and infraorbital regions, and the enophthalmos of the right eye persisted. This was treated on June 14, 2002 by admitting her to the Short Procedure Unit at Allegheny General Hospital. At that time she had a right-sided cheek implant placed, a surgical browlift to elevate the eyebrows, lysis of adhesions around the right frontozygomatic suture and right inferior orbital rim with removal of the bone plates and screws. A Silastic implant was placed into the right orbital floor to attempt to elevate the right globe. Another admission on September 23, 2002 was to place endosseous implants into the maxilla. On exploration of the maxilla it was found that there still was not enough bone to place dental implants so that the surgical site was closed and the patient was prepared for another bone graft to the upper jaw.

Mrs. Tylwalk was readmitted on September 27, 2002 and the following procedures were done to attempt to rebuild the upper jaw: left posterior iliac crest corticocancellous bone procurement, drawing of a unit of blood for platelet rich plasma, right unicoronal flap with harvest of calvarial graft, corticocancellous graft to the upper jaw and skull graft to lateral and anterior aspects of the upper jaw. She accepted these bone grafts and on April 25, 2003 multiple dental implants (6) were placed into the maxilla. Further a left lateral canthopexy was performed.

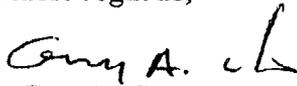
She has progressed well after her last surgery involving the dental implants. The left lower eyelid now appears to be functionally and aesthetically better. The implants placed on April 25, 2003 appear to be well-positioned and the prognosis of these dental implants are good based upon the volume of bone in the upper jaw into which they were placed. She continues to have enophthalmos of the right orbit and eyeball. This may be addressed in the near future. After a period of 6-8 months the dental implants can be exposed and prosthodontics begun to replace her upper and lower dentures.

The prognosis for her facial injuries is good and she will be left with some residual disabilities related to moderate double vision in the right eye. She will continue to

require psychological counseling and treatment, which will be under the purview of her primary care physician and therapist. The double vision and psychological problems will be permanent albeit somewhat improved over time.

If you require further information regarding Lou Ann Tylwalk please don't hesitate to call my office at your convenience.

Kindest regards,



Dr. Guy A. Catone
Associate Professor Department of Medicine
Drexel College of Medicine
Division of Oral and Maxillofacial Surgery
West Penn Allegheny Health System

R o n a l d M . L i n g l e , P s y c h o l o g i s t

May 16, 2003

Carl Belin, Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk DOB: 10/25/1958 Request for report treatment history

Dear Mr. Belin,

Here is a summary of my evaluation, treatment, and prognosis of Lou Ann Tylwalk, per your request of 5/12/03. Please contact me if clarification or further information is required.

History of current illness:

Reports obtained by this psychologist from DuBois Regional Medical Center (DRMC) and Allegheny General Hospital (AGH) show that Lou Ann was initially stabilized on 8/24/01, at DRMC's ER after a large tree limb fell at night from a tree, onto her tent, while she was camping at a local park. According to ER records at AGH, where she was transported by helicopter, Lou Ann was a "life or death" admission to their facility with "Skull Fractures and Coma, NOS" (Earl Floyd Scott, MD, 9/17/01), among many other injuries. Dr. Ahmed Halal indicated on his discharge summary of 9/14/01 that Lou Ann had a "positive loss of consciousness and amnesia." She required mechanical ventilation for more than 4 days to survive and was treated in the hospital's Neuro ICU due to her brain injuries and status. Because of agitation and disorientation, Lou Ann was placed on Ativan and Haldol during her stay in the NICU. She eventually was stepped down to a regular unit, where she stayed for the remainder of her acute hospitalization. She was transferred three weeks after the injury to DRMC's Rehabilitation Unit for a one week stay, mostly due to safety issues resulting from her brain injury. Dania Fischetti from AGH's Neuropsychology department wrote on her consult of 9/12/01, "Supervision is recommended, particularly when safety is an issue."

At DRMC, Lou Ann was admitted by Psychiatrist, Laun Hallstrom, M.D. on 9/14/01 and diagnosed with "status post facial trauma with history of subarachnoid hemorrhage and subdural hemorrhage." He ordered a plan of rehabilitation that included "supervision outside of the room associated with impulsivity" as well as a neuropsychological evaluation. This evaluation was conducted by Dr. Gregory Martino on 9/18/01 with the following findings: "General intellectual status was . . . in the low average range which was . . . significantly below expectation given her reported experiential background; Notable deficits were indicated in higher-level reasoning, information processing, and working memory abilities." Dr. Martino further stated that ". . . she is not a good candidate for employment . . ." and recommended "follow-up neuropsychological evaluation in 6-9 months." He also recommended that she refrain from performing potentially dangerous tasks that require adequate working memory, spatial reasoning, speeded response, and higher-level reasoning skills . ." Lou Ann was discharged home on 9/19/01 with constant supervision for ambulation due to "traumatic brain injury with impulsivity and cognitive deficits" (L. Hallstrom, M.D., Discharge Summary 9/19/03). She returned to her home with supervision of family and Home Health Speech

P . O . B o x 1 2 • H y d e , P A • 1 6 8 4 3 - 0 0 1 2
P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

Ronald M. Lingle, Psychologist

Therapy for cognitive deficits and an assortment of follow-up medical appointments, medications, and other instructions.

Evaluation:

As is often the case status post traumatic head injury, Lou Ann developed a rather severe depression about six months after the accident which caused her to be sad, feel more discouraged, lack motivation, avoid social contact with others, and lose all interest in previously enjoyed activities. I was referred her case in March 2002 by a Speech Therapist who was providing cognitive rehabilitation to her, at the time, on an outpatient basis. I first saw Lou Ann on 3/25/02 with diagnoses of Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She demonstrated decreased speed of cognition, flat affect with downward, left-facing gaze, and significantly depressed and anxious mood. She also, still had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). As my specialty is in working with adjustment to serious injury/illness, I assessed and worked with her depression and family issues related to her life-changing injury. We decided on a plan of regular outpatient psychotherapy that included psychoeducation of traumatic brain injury and sequelae, cognitive-behavioral therapy of depression and anxiety, marital therapy for education and grief/loss processing, and consultation with her PCP related to the pharmacotherapy of her depression, anxiety, and cognitive symptoms.

Treatment:

Sessions have continued to this date, averaging weekly to biweekly depending upon her status. As of this date, I have seen her (or her family) a total of 35 sessions. Although she has made relatively good progress in adjusting to her losses, she suffers a setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Lou Ann has been hospitalized for continuing facial surgery in June of 2002 and then again in September 2002. After each surgery, Lou Ann has experienced a return of severe depression combined with a decline in cognitive abilities that resulted in major changes in her psychopharmacology and psychotherapy each time. After the June surgeries it took two months of weekly psychotherapy and changes/increases in her antidepressants and hypnotics for her to return to her pre-June level of mood and cognition. Her most recent hospitalization in September of 2002 was especially difficult with Lou Ann requiring extensive changes in her antidepressant medication and weekly psychotherapy to continue functioning semi-independently. It took until January of 2003 for her to return to the level of mood and cognition that she achieved just two months after the June surgery. She also received surgery in August of 2002 and April of 2003 but was not admitted into the hospital nor received any general anesthetics.

As one of goals of our treatment plan was to consult with her PCP regarding pharmacotherapy of depression, anxiety, and cognition, regular contacts with Dr. Joseph Vetrano were completed. At least three different medication strategies were tried until the current regimen of Wellbutrin, Buspar, and Trazadone for her emotional and cognitive difficulties was achieved. Please contact Dr. Vetrano for exact medication dosages and times as he is the prescriber of record. She has had two major changes in her antidepressant medications since June of 2002. Due to her severe mood decrease after the June surgery, Dr. Vetrano placed her on Remeron in July with very poor results. She did not improve in mood or sleep and gained over 10 pounds. He stopped this medication and restarted the Luvox, Trazadone and Ambien. She recovered fairly well and went into the surgery in

P . O . B o x 1 2 • H y d e , P A • 1 6 8 4 3 - 0 0 1 2
P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

Ronald M. Lingle, Psychologist

September with only a mild level of depressive symptoms and good sleep on the Trazadone. Unfortunately, Lou Ann became very depressed after the extensive surgery in September and more medication changes were tried. She was started on Wellbutrin due to her depression, cognition, and tobacco addiction. Her surgeon in Pittsburgh was concerned about low calcium levels and inadequate bone healing in the presence of regular cigarette smoking. It took an extended time for the Wellbutrin to show its expected antidepressant effect on Lou Ann. Lou Ann has shown slow but continued improvement in her recovery from the most recent exacerbation of depression. We have met weekly (on average) from September through December (2002) with improvements in her depression but continued reports of anxiety and agitation. I met with her PCP, Dr. J. Vetrano on 12/31/02 and requested his assistance with this continuing issue. He prescribed Buspar 5 mgs. bid, (in addition to her Wellbutrin and Trazadone) and Lou Ann began this additional treatment later that day. The addition of the Buspar seems to have given Lou Ann the antidepressant and anxiolytic effect she needed while giving her the additional benefits of improved smoking control and better perceived cognition. Psychotherapy continued 3-4 times per month until her latest surgery in April. After a period of physical recovery, we are re-starting therapy with our next session scheduled May 19, 2003. Phone consultations have been provided on an as needed basis to Lou Ann and her husband on an as needed basis since we began treatment in March of 2002.

Current Functioning Status:

This examiner's current diagnosis of Lou Ann continues to be Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She still has difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). We continue to work with her depression and family issues related to her life-changing injury. It is quite clear that she continues to have cognitive slowing and problems with multitasking, although she is now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting, and crafts. Lou Ann is not capable of handling any complex life planning, money handling, or legal decision-making. Fortunately, Lou Ann does have insight into her losses and current condition and defers these decisions to her husband.

Although she has made some progress in adjusting to her losses, she suffers a cognitive and emotional setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Recent surgeries were in June, August, and September (of 2002) and in April of 2003, with more pending in the future. Emotionally, she has shown recovery from her surgeries to her pre-surgery baseline level.

Prognosis:

This psychologist has met with Lou Ann a total of 35 times over the last 14 months for treatment of symptoms of depression, anxiety, family stress, and decreased cognition that were not a part of her life before the traumatic head injury of August 2001. Although this examiner is not a Neuropsychologist, it is obvious that Lou Ann Tylwalk cannot return to her job as a control-room operator now or in the future. As it has been over a year and a half since the accident and brain injury, with very little further cognitive recovery expected from this point, it would be dangerous to subject Lou Ann and/or others at the plant to the possibility of mistakes in judgment resulting from this injury. Her continued reconstructive surgical status combined with her ongoing mood

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R o n a l d M . L i n g l e , P s y c h o l o g i s t

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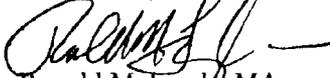
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R o n a l d M . L i n g l e , P s y c h o l o g i s t

fluctuations would also preclude any other gainful work in the near future (2-3 years). Further prognosis past this point will require neuropsychological, psychological, and occupational testing to determine physical, cognitive, and emotional readiness for employment.

Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life.

Respectfully submitted,



Ronald M. Lingle, MA
Psychologist

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Social Security Administration
Retirement, Survivors and Disability Insurance
Notice of Award

Office of Central Operations
1500 Woodlawn Drive
Baltimore, Maryland 21241-1500
Date: April 4, 2003
Claim Number: 160-48-3192HA

0331 MCS,PC7,I,BA,058,153
LOU A TYLWALK
119 HIGH ST
CLEARFIELD, PA 16830-2371

000025228 03 MB 0.718



You are entitled to monthly disability benefits beginning February 2002.

The Date You Became Disabled

We found that you became disabled under our rules on August 24, 2001.

However, you have to be disabled for 5 full calendar months in a row before you can be entitled to benefits. For these reasons, your first month of entitlement to benefits is February 2002.

What We Will Pay And When

- You will receive \$18,310.00 around April 10, 2003.
- This is the money you are due for February 2002 through March 2003.
- Your next payment of \$1,720.00, which is for April 2003, will be received on or about the fourth Wednesday of May 2003.
- After that you will receive \$1,720.00 on or about the fourth Wednesday of each month.
- These and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.
- Later in this letter, we will show you how we figured these amounts.

The day we make payments on this record is based on your date of birth.

Enclosure(s):
Pub 05-10153
Pub 05-10058

C

See Next Page

12081 10215 7150 3 11000 11010 11030 1200 1202 1204 1206 1208 1210 1212 1214 1216 1218 1220 1222 1224 1226 1228 1230 1232 1234 1236 1238 1240 1242 1244 1246 1248 1250 1252 1254 1256 1258 1260 1262 1264 1266 1268 1270 1272 1274 1276 1278 1280 1282 1284 1286 1288 1290 1292 1294 1296 1298 1300

Your Benefits

The following chart shows your benefit amount(s) before any deductions or rounding. The amount you actually receive(s) may differ from your full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

Beginning Date	Benefit Amount	Reason
February 2002	\$1,696.90	Entitlement began
December 2002	\$1,720.60	Cost-of-living adjustment

Information About Lawyer's Fees

We have approved the fee agreement between you and your lawyer.

Your past-due benefits are \$22,120.00 for February 2002 through February 2003. Under the fee agreement, the lawyer cannot charge you more than \$5,300.00 for his or her work. The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports). This is a matter between you and the lawyer.

How To Ask Us To Review The Determination On The Fee Amount

You, the lawyer or the person who decided your case can ask us to review the amount of the fee we say the lawyer can charge.

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter. Tell us that you disagree with the amount of the fee and give your reasons. Send your request to this address:

Social Security Administration
Office of Hearings and Appeals
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The lawyer also has 15 days to write us if he or she thinks the amount of the fee is too low.

If we do not hear from you or the lawyer, we will assume you both agree with the amount of the fee shown.

Information About Past-Due Benefits Withheld To Pay A Lawyer

Because of the law, we usually withhold 25 percent of the total past-due benefits to pay an approved lawyer's fee. We withheld \$5,530.00 from your past-due benefits to pay the lawyer.

Do You Disagree With The Decision?

You have already been notified of your appeal rights regarding the decision made by the Administrative Law Judge and what you must do to have that decision reexamined. If you believe that any other determination made by us in carrying out the Administrative Law Judge decision is incorrect, you may also request that part of your case be reexamined.

If you want this reconsideration, you may request it through any Social Security office. If additional evidence is available, you should submit it with your request. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim". It contains more information about the appeal.

Things To Remember For The Future

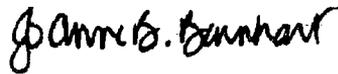
Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

If You Have Any Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-814-371-8099. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
480 JEFFERS STREET
DUBOIS, PA 15801

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.



Jo Anne B. Barnhart
Commissioner
of Social Security



PAYMENT SUMMARY

Your Payment Of \$18,310.00

Here is how we figured your first payment:

Benefits due for February 2002 through March 2003 including any cost of living increase, less monthly rounding of benefits	\$23,840.00
--	-------------

Amount we subtracted because of

- money to pay your lawyer 5,530.00

This equals the amount of your first payment	\$18,310.00
--	-------------

Your Regular Monthly Payment

Here is how we figured your regular monthly payment effective April 2003:

You are entitled to a monthly benefit of	\$ 1,720.60
--	-------------

Amount we subtracted because of

- rounding (we must round down to a whole dollar)60

This equals the amount of your regular monthly payment	\$ 1,720.00
--	-------------

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

DECISION

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk
(Claimant)

Period of Disability and
Disability Insurance Benefits

(Wage Earner)

160-48-3192
(Social Security Number)

PROCEDURAL HISTORY & JURISDICTION

The claimant protectively filed the instant application for disability insurance benefits on May 15, 2002 (Exhibits 1D-2D), alleging disability due to problems with reasoning, short-term memory, and multiple tasking due to head injuries, and post traumatic stress syndrome (Exhibit 2E). Following denial of her claim initially, the claimant timely filed a request for hearing which is presently before the undersigned.

ISSUES

The general issue is whether the claimant is entitled to a Period of Disability and to Disability Insurance Benefits under Sections 216(i) and 223 of the Social Security Act. The specific issue is whether she is under a disability, defined as the inability to engage in any substantial gainful activity by reason of an impairment expected either to result in death or last for a continuous period of at least 12 months.

An additional issue pertains to insured status. Information contained in the claimant's earnings record (Exhibit 3D) reveals she acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

CONCLUSION

After giving careful consideration to all of the evidence, the undersigned has concluded that a favorable decision is warranted without the need for testimony. Thus, no hearing was held.

The documentary records support a finding that beginning August 24, 2001, the claimant has had an impairment which meets Section 12.02 of the Listing of Impairments contained in Appendix I, Subpart P, Regulations No. 4, and therefore, she is disabled within the meaning of the Social Security Act and Regulations.

EVALUATION OF THE EVIDENCE

Under the authority of the Social Security Act, the Social Security Administration has established a sequential evaluation process followed in determining disability (20 CFR 404.1520). The first step in this process concerns the question of when the claimant last engaged in substantial gainful activity.

A forty-four year old individual with a high school education (Exhibit 2E), the claimant has past relevant work experience as a power plant control operator (Exhibits 3D; 2E-3E).

The evidence shows the claimant has not worked since alleging disability on August 24, 2001, and consequently, has not been engaging in substantial gainful activity, as defined in 20 CFR 404.1510.

The evidence supports a finding that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are medically determinable, impose limitations with more than a minimal effect on her physical ability to do basic work, and have lasted 12 continuous months or more. Thus, these impairments are "severe" as defined by 20 CFR 404.1520 and Social Security Ruling 85-28.

After reviewing the entire matter, including all pertinent exhibits, the undersigned finds the claimant's impairments meet Section 12.02 of the Listing of Impairments contained in Appendix I, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Regarding the claimant's mental condition, the evidence in this case shows status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression.

Ronald Lingle, M.A., the claimant's treating psychologist, correctly summarized the claimant's treatment as involving hospitalization during August 24 through September 15, 2001 for a traumatic brain injury and multiple skull and facial fractures, and rehabilitation during September 15-19, 1991 (Exhibit 2F).

Mr. Lingle on July 23, 2002 reported the claimant had a poor to nonexistent prognosis of returning to her premorbid employment, given she lacked ability to concentrate and multitask necessary for the job of control room operator at a power plant (Exhibit 22F). He reported she required more facial and oral surgeries, and that it seemed the anesthesia and stress of surgery set her back emotionally and cognitively after each surgery (Exhibit 22F).

Mr. Lingle reported the claimant had fair to poor abilities to make occupational adjustments, good to poor abilities to make performance adjustments, and good to fair abilities to make personal-social adjustments (Exhibit 22F). In particular, she reported the claimant had poor abilities to interact with supervisors, deal with work stresses, function independently, and understand, remember, and carry out complex tasks or job instructions (Exhibit 22F).

Mr. Lingle reported the claimant during weekly psychotherapy for adjustment to traumatic brain injury and her disfiguring life-threatening injury became increasingly anxious and agitated with complex details and information during the sessions (Exhibit 22F). He reported observing decrease in self-care and increase in withdrawal from socialization (Exhibit 22F). He reported the claimant was self-conscious of her facial disfigurement and loss of teeth, and demonstrated increasing anxiety and agitation around others (Exhibit 22F). He reported the claimant had an increase in symptoms of depression and anxiety with her depression being in the severe range of 28 on the Beck Depression Inventory on July 8, 2002 (Exhibit 22F). He reported the claimant could not handle complex information under stress (Exhibit 22F).

Mr. Lingle reported she demonstrated difficulties performing activities of daily living on a daily basis, needed prompting from her husband for personal care, health, and hygiene, and needed help from her husband to shop, maintain her residence, and take care of her health care needs (Exhibit 22F).

Mr. Lingle reported the claimant demonstrated difficulties getting along with others (Exhibit 22F). He reported she had difficulty maintaining a daily household routine and completing all tasks necessary to remember appointments independently (Exhibit 22F). He reported when she was depressed she did not cook, clean, or do most of her activities of daily living without prompting (Exhibit 22F).

Regarding her memory, Mr. Lingle reported the claimant remembered little information between the day of the accident and a number of months thereafter, since her memories did not begin until the claimant's rehabilitation (Exhibit 22F). He reported the claimant could not multitask large amounts of information and overloaded easily (Exhibit 22F). He reported she had trouble with details and complex information (Exhibit 22F). He reported her immediate retention and recall was poor for complex or large amounts of information (Exhibit 22F).

Regarding her impulse control, Mr. Lingle reported the claimant remained quick to anger, irritability, and frustration, and said things she later regretted (Exhibit 22F). He reported the claimant had panic attacks when in crowded rooms (Exhibit 22F).

Mr. Lingle reported the claimant appeared sad and depressed (Exhibit 22F). He reported she had a decreased activity level and stayed in her home more than she did before the accident (Exhibit 22F). He reported she was extremely self-conscious due to her injuries and inability to process information quickly (Exhibit 22F). He reported she had increased irritability and decreased frustration tolerance (Exhibit 22F).

On December 29, 2002 the claimant provided an update to his July 23, 2002 report (Exhibit 30F). He reported the claimant was hospitalized for continuing facial surgery in June, 2002 and September, 2002, after which she experienced a return of severe depression and a decline in her cognitive abilities (Exhibit 30F). He reported she continued to have poor concentration and memory, and had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (Exhibit 30F). He reported she continued to have cognitive slowing and problems with multitasking (Exhibit 30F). He reported she needed more surgery in the future, but that she continued to suffer setbacks after surgery (Exhibit 30F). He reported very little further cognitive recovery was expected (Exhibit 30F). He concluded if she returned to work she might cause injury to herself or others (Exhibit 30F).

Indeed, controlling weight is afforded Mr. Lingle's assessment, as it is rendered by a treating mental health expert, consistent with the objective and clinical findings of record, and is not otherwise inconsistent with other substantial evidence contained in the case record (Social Security Ruling 96-2p).

Additional medical evidence supporting the findings in Exhibits 22F and 30F is present in Exhibits 3F; 11F-12F; 17F; 29F. Full analysis of these Exhibits is unnecessary given the Undersigned accepts, and finds full support for meeting Listing 12.02 in, Exhibits 22F and 30F.

Based on the above, the undersigned concludes as to activities of daily living, there are marked limitations. As to social functioning, there are marked limitations. As to concentration, persistence, and pace, there are marked limitations. Finally, as to the fourth "B" criteria, there is no evidence the claimant has experienced one or more episodes of decompensation, each of extended duration.

A claimant's mental condition meets the requirements of Listing 12.02, when the claimant has psychological or behavioral abnormalities associated with brain dysfunction, with a history and physical examination or laboratory tests demonstrating the presence of a specific organic factor judged to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The claimant's condition must meet the "C" criteria, or the "A" criteria and two of the "B" criteria regarding activities of daily living, social functioning, maintaining concentration, persistence, or pace, and repeated episodes of decompensation, each of extended duration.

To meet the "A" criteria of Listing 12.02, the claimant needs demonstration of a loss of specific cognitive abilities or affective changes and the medically documented persistence of one of seven conditions. First, disorientation to time and place. Second, a memory impairment, either short-term (inability to learn new information), intermediate, or long-term (inability to remember information that was known sometime in the past). Third, perceptual or thinking disturbances (e.g., hallucinations, delusions). Fourth, change in personality. Fifth, disturbance in mood. Sixth, emotional lability (e.g., explosive temper outbursts, sudden crying, etc.) and impairment in impulse control. Seventh, loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan.

As analyzed above, the claimant's condition meets the requirements of the "A" criteria of Listing 12.02.

As analyzed above, the undersigned concludes the claimant has significant limitations in three of the four "B" criteria, namely, activities of daily living, social functioning, and concentration, persistence, or pace.

In view of the foregoing, it is clear the claimant's mental impairments are severe and meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Because the claimant's mental condition meets the "A" and "B" criteria of Listing 12.02, the "C" criteria need not be analyzed.

In view of the clinical and objective findings, it is clear the claimant's impairments are severe and meet Section 12.02 of Appendix 1, Subpart P, Regulations No. 4. Hence, the claimant is disabled pursuant to Regulations 404.1520(d).

As the claimant is under a disability, the claimant is entitled to receive Disability Insurance Benefits based on her application protectively filed on May 15, 2002.

Regarding the above assessment, a state agency mental health consultant who evaluated the evidence assessed the claimant's condition did not meet the requirements of Listing 12.02 (Exhibits 23F-24F). Although this opinion is entitled to less weight since it was given by a non-examining mental health expert, it is considered a medical opinion and entitled to some weight (Social Security Rulings 96-2p, 96-6p, 96-7p and 96-8p). The state agency mental health consultant was not afforded an opportunity to review the medical evidence received subsequent to her determination. These subsequent reports confirmed the claimant's condition meets the requirements of Listing 12.02.

In view of the severity of the claimant's condition, it appears she would be unable to manage benefits in her own interest. The claimant's treating psychologist reported the claimant could not manage benefits in her own interest (Exhibit 22F). Accordingly, it is recommended she receive benefit payments through a representative payee, specifically her husband.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

1. The claimant met the disability insured status requirements of the Act on August 24, 2001, the date she stated she became unable to work, and has acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

2. The claimant has not engaged in substantial gainful activity since August 24, 2001 (20 CFR 404.1520(b)).
3. The medical evidence establishes that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are severe within the meaning of the Regulations.
4. The severity of the claimant's mental impairments meets the requirements of Section 12.02, Appendix 1, Subpart P, Regulations No. 4, and has precluded her from working for at least twelve continuous months (20 CFR 404.1525).
5. The claimant has been under a disability since August 24, 2001.
6. The claimant is to receive benefit payments through a representative payee.
7. The claimant has been under a disability as defined by the Social Security Act and Regulations since August 24, 2001 (20 CFR 404.1520).

DECISION

It is the decision of the Administrative Law Judge that, based on the application for disability insurance benefits protectively filed on May 15, 2002, the claimant is entitled to a period of disability commencing August 24, 2001, and to disability insurance benefits under Sections 216(i) and 223, respectively, of the Social Security Act, as amended.

Because there is evidence that the claimant may have difficulty in managing her benefits, the undersigned recommends that the component responsible for effectuating this decision determine whether the appointment of a representative payee is warranted.


John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

ORDER

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk

(Claimant)

Period of Disability and
Disability Insurance Benefits

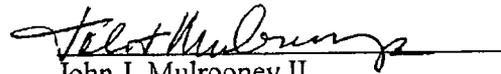
(Wage Earner)

160-48-3192

(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits.

My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.



John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court Order in Holman et al. v. Bowen, (Civ. No. 78-0494, M.D. Pa., May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security Office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800-732-3545.



SOCIAL SECURITY ADMINISTRATION

Refer To: 160-48-3192

Office of Hearings and Appeals
334 Washington Street, Suite 200
Johnstown, Pennsylvania 15901
Telephone: (814) 533-4462

Date: FEB 28 2003

Lou A. Tylwalk
119 S. High Street
Clearfield, PA 16830

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

If You Disagree With The Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal, you or your representative, if you choose to appoint one, must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Hearings and Appeals, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with my decision and you file a new application instead of appealing, you might lose some benefits, or not qualify for any benefits. My decision could also be used to deny a new application for insurance benefits, if the facts and issues are the same. So, if you disagree with this decision, you should file an appeal within 60 days.

Lou A. Tylwalk (160-48-3192)

Page 3 of 3

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (724)371-8099. Its address is 480 Jeffers Street, Dubois PA 15801.

cc: Gerald W. Foulds, Esquire
955 Liberty Ave Ste 402
Pittsburgh, PA 15222

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. No.	Part No.	Description	No. of Pages
<u>MEDICAL RECORDS</u>			
1	F	Emergency Room Records dated 8/2/01 from Clearfield Hospital	4
2	F	Emergency Room Records dated 8/24/01 from DuBois Regional Medical Center	27
3	F	Neuropsychological Screening Evaluation dated 9/18/01 from Gregory M. Martino, Ph.D.	3
4	F	Hospital Records for admission on 8/24/01 through discharge on 9/14/01 from Allegheny General Hospital	42
5	F	Hospital Records for admission on 9/14/01 through discharge on 9/19/01 from DuBois Regional Medical Center	40
6	F	MRI - Orbits and Facial dated 9/27/01 from Rudy J. Nicolas, MD	2
7	F	Hospital Records for admission on 10/1/01 through discharge on 10/4/01 from Clearfield Hospital	12
8	F	Medical Report dated 10/15/01 from David Oliver-Smith, MD	2
9	F	Record of Operation dated 11/2/01 from Allegheny General Hospital	3
10	F	Outpatient records dated 11/9/01 through 11/12/01 from Clearfield Hospital	10
11	F	Clearfield Hospital Home Health Services records dated 10/5/01 through 11/14/01	7
12	F	Outpatient speech/language therapy records dated 9/19/01 through 12/6/01 from DuBois Regional Medical Center	7
13	F	Evaluation record dated 1/25/02 from Allegheny General Neuro-Ophthalmology Dept.	4
14	F	Hospital Records for admission on 2/1/02 through discharge on 2/2/02 from Allegheny General Hospital	6
15	F	Hospital Records for admission on 3/1/02 through discharge on 3/3/02 from Clearfield Hospital	12
16	F	Letter dated 3/4/02 from Richard E. Johnson, DO	1

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. Part No. No.	Description	No. of Pages
17 F	Clearfield Hospital Home Health Services records dated 3/8/02 through 3/27/02	7
18 F	Medical Records covering the period from 9/28/01 to 5/7/02 from Joseph A. Vetrano, MD	21
19 F	Hospital Records for admission on 6/14/02 through discharge on 6/15/02 from Allegheny General Hospital	11
20 F	Report of Contact with Dr. Johnson dated 7/3/02	1
21 F	Medical Records covering the period from 9/25/01 to 7/16/02 from Guy A. Catone, DDS	22
22 F	Psychological Evaluation dated 7/23/02 by Ronald M. Lingle, M.A.	7
23 F	RFC - Residual Functional Capacity Assessment - Mental (completed by DDS physician) dated 7/26/02	4
24 F	Psychiatric Review Technique Form (completed by DDS physician) dated 7/26/02	15
25 F	RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 7/31/02	8
26 F	Hospital Records dated 08/23/02 from Allegheny General Hospital	10
27 F	Hospital Records for admission on 09/27/02 through discharge on 09/30/02 from Allegheny General Hospital	17
28 F	Medical Records covering the period from 10/15/01 to 10/22/02 from Guy A. Catone, D.D.S. (duplicates removed)	16
29 F	Medical Records covering the period from 07/08/02 to 11/08/02 from Joseph Vetrano, M.D. (duplicates removed)	8
30 F	Medical Report dated 12/29/02 from Ronald M. Lingle, MA	4

LIST OF EXHIBITS

CLAIMANT: LOU A. TYLWALK SSN: 160-48-3192

W/E: _____ SSN: _____
(if applicable)

PAYMENT DOCUMENTS/DECISIONS

Section A contains paperwork that shows decisions made by the Social Security Administration and payment documents. Each set of documents is labeled with the section number and numerically as exhibit.

Section A consists of 1 exhibits.

JURISDICTIONAL DOCUMENTS/NOTICES

Section B contains jurisdictional documents (essential paperwork for processing applications and claims). Section B contains notices sent out in the case. Each set of documents is labeled with the section number and numerically as an exhibit.

Section B consists of 6 exhibits.

Section C ordinarily will be empty.

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 3 exhibit.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 8 exhibits.

Part A (Yellow) - Payment Documents/Decisions
Part B (Red) - Jurisdictional Documents/Notices
Part D (Orange) - Non-Disability Development
Part F (Blue) - Disability Related Development and Documentation

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income
Part (DWB) - Disabled Widow/Widower

Umbalita Mingo
Associate Disability Manager

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

Phone: (800) 524-0542 Ext: 7123
Fax: (973) 548-7530
Hours: 8.30am to 4.35pm

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

December 22, 2003

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Dear Ms. Tylwalk:

We have completed our review of your first request for reconsideration of our decision to deny your claim for Total and Permanent Disability Benefits under Group Policy G-90452 issued to Sithe Energies, Inc. We have determined that our decision was appropriate and have upheld our decision to deny your claim. This letter outlines the reasons for this determination.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Requirements

In order to be eligible for the continuation of your group life insurance you had to become Totally Disabled while a covered individual and less than age sixty.

An Employee is "Totally Disabled" when they are not engaged in any occupation and if the employee is completely unable, due to sickness or injury or both, to engage in any occupation, which that person is reasonably fitted by education, training, or experience.

In accordance with the group policy provisions, if an employee is Totally and Permanently Disabled, they will have \$20,000.00 of their basic group life insurance paid to them in one lump sum.

"Totally and Permanently Disabled" exists only while the Employee is totally disabled as described above and that disability is such that the Employee will continue to be unable due to sickness or injury or both, to engage in any occupation, which the

Employee is reasonably fitted by education, training, or experience, *for the remainder of the Employee's lifetime.*

Your claim for Total and Permanent Disability was denied because we determined that documentation did not support a mental or physical impairment that would prevent you from performing the duties of any occupation for the remainder of your lifetime. A complete explanation of our decision can be found in our letter dated September 22, 2003.

Medical Information

Information provided with your Appeal included a letter dated November 26, 2003 with an extract from your psychologist, Dr. Ronald Lingle in which you underlined the last statement, "however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life".

To substantiate the above underlined statement you added a 'Request for report of treatment history', dated May 16, 2003 by Dr. Lingle. In this report, Dr. Lingle's assessment of your current functioning status indicates that his office continues to work with your depression and family issues related to your life-changing injury. It is quite clear that you continue to have cognitive slowing and problems with multitasking, although you are now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting and crafts. You are not capable of handling any **complex** life planning, money handling or legal decision-making. Fortunately, you do have insight into your losses and current condition and defer these decisions to your husband.

Dr. Lingle opines that, although you have made some progress in adjusting to your losses, you suffer a cognitive and emotional setback each time you have corrective surgery (with general anesthesia) for your accident-related injuries. Emotionally, you have shown recovery from your surgeries to your pre-surgery baseline level.

In Dr. Lingle's prognoses, he opines that it is obvious you cannot return to your job as a control-room operator now or in the future. Your continued reconstructive surgical status combined with your ongoing mood fluctuations would also preclude you from any other gainful work in the near future (2-3 years).

Finally Dr. Lingle stated that you are both hopeful that you can eventually return to the workforce in some capacity as your past excellent work record is a source of pride and self esteem.

We have thoroughly evaluated the documentation in the file as well as the documentation received for the purpose of your appeal.

Summary

Although it is evident you are suffering from some discomfort associated with your medical condition, the information currently in file does not contain any objective

medical documentation to support total and permanent disability. The file does not substantiate your inability to return to any job for the remainder of your lifetime. Therefore, since the permanency of your condition cannot be established, we are upholding our decision to deny your claim.

Please contact your employer for the status of your Group Life Insurance and to determine whether you may be eligible for conversion.

You may again appeal this decision. If you elect to do so, you or your authorized representative must make the appeal in writing. Your appeal must be submitted within 180 days of the receipt of this letter. The appeal may identify the issues and provide other comments or additional evidence you wish considered. You are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to your claim. The written appeal should be submitted to:

Waiver of Premium Appeals Review
The Prudential Insurance Company Of America
Waiver of Premium Division
PO Box 482
Livingston NJ 07039

A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Senior Management Team expects to render a decision shall be furnished to you within the initial 45-day period. However, if the Senior Management Team requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

If our decision to deny benefits is upheld at the second level of appeal, you may file a voluntary third appeal. The same time frame for the first appeal will apply to the third appeal. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal.

After completion of the first two levels of appeal, you may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the above address or call (800) 524-0542, extension 7123. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,


Umbalita Mingo
Associate Disability Manager

April 5, 2004

Umbalita Mingo
Associate Disability Manager
Waiver of Premium Appeals Review
The Prudential Insurance Company of America
Waiver of Premium Division
P.O. Box 482
Livingston, NJ 07039

In re: Claimant: Lou Ann Tylwalk
 Control No. 90452
 Claim No.: 10469216
 Date of Birth: 10/25/1958
 Your letter dated December 22, 2003, Upholding
 decision to deny my claim for Total and
 Permanent Disability Benefits under Group
 Policy G-90452 issued to Sithe Energies, Inc.

Dear Mr. Mingo:

I do hereby appeal from your determination that your earlier decision was appropriate in denying my claim for Total and Permanent Disability Benefits under Group Policy G-90452 issued to Sithe Energies, Inc.

I disagree with your determination for the following reason: I have secured an opinion of Dr. Ronald Lingle dated March 23, 2004, in which he makes it clear that I am "totally and permanently disabled from performing any work in any capacity for the remainder of [my] life." The basis set forth in your letters of September 22, 2003, and December 22, 2003, both are based upon Dr. Lingle's report. I also incorporate the content of my letter of December 26, 2003, a copy of which is enclosed with attachments, which make clear that I am totally and permanently disabled.

In support of this letter, I herein submit the following:

1. my letter to Mr. Caruso dated November 26, 2003;
- and

Exhibit "D"

Umbalita Mingo

April 5, 2004

2

2. letter from Ronald Lingle, Psychologist, dated
March 23, 2004.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6484

P.S. I have a yellow tab on the most recent letter of Dr. Lingle.

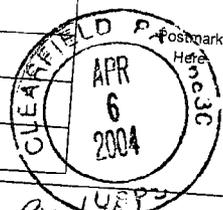
Lou Ann Tylwalk

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only. No Insurance Coverage Provided)

7001 2510 0002 6639 6484

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To: Umbalita Mingo Assoc. Disability mgr
 Street, Apt. No., or PO Box No.: Waiver of Premium Appeals Review
 City, State, Zip+4: The Prudential Ins. Co. of America
P.O. Box 482 Livingston, NJ 07039

PS Form 3800 January 2001

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Bob Ull</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>4/9</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to: Umbalita Mingo Assoc. Disability Mgr. Waiver of Premium Appeals Review The Prudential Insurance Co. of America Waiver of Premium Division P.O. Box 482 Livingston, NJ 07039</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540</p>	

November 26, 2003

Christopher J. Caruso
Disability Claims Manager
The Prudential Insurance Company
Of America
Waiver of Premium
P.O. Box 482
Livingston, NJ 07039

In re: Your letter dated September 22, 2003 denying my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy

Dear Mr. Caruso:

I do hereby appeal from your decision regarding my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy.

I disagree with your determination for the following reasons: The reports in this case indicate I have suffered a traumatic head and face injury, a traumatic brain injury resulting in a cognitive disorder, mood disorder, and depression, as a result of which I am totally and permanently disabled. In addition to my injuries I am currently taking the following medications:

80 mg oxycontin 2 x day - pain killer
15 mg buspar 2 x day - antidepressant
150 mg wellbutrin 2 x day - antidepressant
100 mg peri-colace 2 x day - to prevent constipation
150 mg trazodone 1 x day antidepressant and sleep aid.

November 26, 2003

2

As a result of my injuries and current medications I am unable to work. The Commonwealth of Pennsylvania has reviewed my injuries and has paid the statutory limits for my injuries. None of my doctors or psychologists have indicated I will be able to return to work at any time in the future.

The suggestion in your decision that I can return to work has been taken out of context of the report of my psychologist, Ronald Lingle. The entire statement is as follows:

"Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life." (emphasis added)

The entire statement recognizes my injuries are permanent and that my disability remains total based on those injuries.

My name, policy number and claim number is as follows:

Name and Address: Lou Ann Tylwalk
119 South High Street
Clearfield, PA 16830

Policy Number: G-90452

Claim Number: 10469216.

The medical evidence I am submitting is as follows:

1. Report and Opinion of Dr. Guy Catone;
2. Report and Opinion of Dr. Ronald Lingle;
3. Social Security Disability Record.

Christopher J. Caruso

November 26, 2003

3

Should you require any further information, please direct your request to my authorized representative:

Carl A. Belin, Jr., Esquire
Belin & Kubista
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6446

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)

07510 0002 6639 6446

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To
 Christopher J. Caruso, Disability Claims Mgr.
 Prudential Insurance Co., Waiver of Premium
 P.O. Box 482
 Livingston, NJ 07039

PS Form 3811, July 1999 January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Received by (Please Print Clearly) _____ B. Date of Delivery _____</p> <p>C. Signature _____ <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Christopher J. Caruso Disability Claims Manager Prudential Insurance Co. Waiver of Premium P.O. Box 482 Livingston, NJ 07039</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Copy from _____)</p> <p style="text-align: center;">7001 2510 0002 6639 6446</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PITTSBURGH FACIAL AND ORAL SURGERY

RECEIVED

MAY - 8 2003

Dr. Guy A. Catone DDS, DMD

May 5, 2003

RE: Lou Ann Tylwalk

Diplomat, American Board of Oral and Maxillofacial Surgery
Fellow, American Academy of Cosmetic Surgery
Fellow, American Association of Oral and Maxillofacial Surgeons

**Carl A. Belin Jr.
Belin & Kubista
Attorneys at Law
15 North Front Street
PO Box 1
Clearfield, PA 16830**

Dear Mr. Belin:

Subject: Medical report

This is in response to your letter of April 28, 2003 concerning the injuries sustained by Lou Ann Tylwalk and the surgery used to address these injuries. Lou Ann Tylwalk at the time of the injury was a 42-year-old woman who was camping in a forest when a tree branch fell and struck her in the face and skull. She suffered a closed head injury, multiple facial skeletal fractures, a fractured right frontal bone and supraorbital rim, nasal bone fractures, naso-orbital ethmoidal fractures, bilateral zygomaticomaxillary complex fractures, blow out fracture of the right orbital floor, Le Fort I maxillary fracture, fracture of the right coronoid process of the mandible, and facial and scalp lacerations and abrasions. She was taken via Life Flight at Allegheny General Hospital and admitted to the Shock Trauma Unit. After initial resuscitation, her facial/skull injuries were surgically addressed.

The patient was taken to the operating room on August 31, 2001 and at that time a bicoronal flap of the skull was developed and the right-sided Le Fort fracture was repaired; the right zygomatic bone body and arch fracture repaired along with repair and reduction of the right supraorbital fracture of the frontal bone. A Killian ("open sky") midline approach was made to repair multiple nasal bone fractures with reconstruction of the nasal bridge with Leibinger mesh. The patient was brought back to the operating room on September 10, 2001 and the blow out fracture of the left orbital floor and blow in fracture of the right orbital floor were repaired. The patient tolerated the anesthesia and surgery well and was discharged to home to be followed up regularly.

As a result of postoperative follow up visits it was noted that the patient had difficulty opening her mouth. This was due to an extra-articular ankylosis of the right jaw joint secondary to a fracture of the coronoid process on this side. She was subsequently readmitted on November 02, 2001 and a right coronoidectomy was performed. She progressed well after surgery and was able to open her mouth to near normal levels and be able to masticate food and articulate words quite well.

Monroeville•Oakland North Side•Baden

West Penn Allegheny Health System Forbes Regional • Professional Office Bldg. 1 • Suite 104 •
2566 Haymaker Road

Monroeville, Pennsylvania 15146-3594

Telephone: (412) 374-9030 Fax: (412) 373-9437

She did well after the surgery in November of 2001. There was some residual enophthalmos of the right orbit and a decreased width of the left palpebral fissure. She also experienced significant post-traumatic resorption of the upper jaw. She was regularly observed in the Maxillofacial Unit at Allegheny General Hospital until February 2002. On February 4, 2002 she was admitted once again to Allegheny General Hospital. At that time the lack of bone in the upper jaw was managed by grafting corticocancellous bone from the posterior iliac crest (right) to the maxillary sinuses bilaterally. It was not possible to place dental implants into the upper jaw because of the lack of bone to stabilize the dental implants needed during the process of osseous integration of these fixtures.

The patient was once again followed in the outpatient offices at Allegheny General Hospital. During this time period remodeling of the bone in the right malar region caused an asymmetry of the face so that the right face appeared to be flattened. The right and left eyebrows appeared to be ptotic (drooping), there were adhesions at the right frontozygomatic and infraorbital regions, and the enophthalmos of the right eye persisted. This was treated on June 14, 2002 by admitting her to the Short Procedure Unit at Allegheny General Hospital. At that time she had a right-sided cheek implant placed, a surgical browlift to elevate the eyebrows, lysis of adhesions around the right frontozygomatic suture and right inferior orbital rim with removal of the bone plates and screws. A Silastic implant was placed into the right orbital floor to attempt to elevate the right globe. Another admission on September 23, 2002 was to place endosseous implants into the maxilla. On exploration of the maxilla it was found that there still was not enough bone to place dental implants so that the surgical site was closed and the patient was prepared for another bone graft to the upper jaw.

Mrs. Tylwalk was readmitted on September 27, 2002 and the following procedures were done to attempt to rebuild the upper jaw: left posterior iliac crest corticocancellous bone procurement, drawing of a unit of blood for platelet rich plasma, right unicoronal flap with harvest of calvarial graft, corticocancellous graft to the upper jaw and skull graft to lateral and anterior aspects of the upper jaw. She accepted these bone grafts and on April 25, 2003 multiple dental implants (6) were placed into the maxilla. Further a left lateral canthopexy was performed.

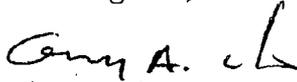
She has progressed well after her last surgery involving the dental implants. The left lower eyelid now appears to be functionally and aesthetically better. The implants placed on April 25, 2003 appear to be well-positioned and the prognosis of these dental implants are good based upon the volume of bone in the upper jaw into which they were placed. She continues to have enophthalmos of the right orbit and eyeball. This may be addressed in the near future. After a period of 6-8 months the dental implants can be exposed and prosthodontics begun to replace her upper and lower dentures.

The prognosis for her facial injuries is good and she will be left with some residual disabilities related to moderate double vision in the right eye. She will continue to

require psychological counseling and treatment, which will be under the purview of her primary care physician and therapist. The double vision and psychological problems will be permanent albeit somewhat improved over time.

If you require further information regarding Lou Ann Tylwalk please don't hesitate to call my office at your convenience.

Kindest regards,

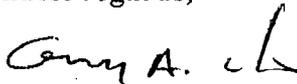


Dr. Guy A. Catone
Associate Professor Department of Medicine
Drexel College of Medicine
Division of Oral and Maxillofacial Surgery
West Penn Allegheny Health System

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If you require further information regarding Lou Ann Tylwalk please don't hesitate to call my office at your convenience.

Kindest regards,



Dr. Guy A. Catone
Associate Professor Department of Medicine
Drexel College of Medicine
Division of Oral and Maxillofacial Surgery
West Penn Allegheny Health System

R o n a l d M . L i n g l e , P s y c h o l o g i s t

May 16, 2003

Carl Belin, Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk DOB: 10/25/1958 Request for report treatment history

Dear Mr. Belin,

Here is a summary of my evaluation, treatment, and prognosis of Lou Ann Tylwalk, per your request of 5/12/03. Please contact me if clarification or further information is required.

History of current illness:

Reports obtained by this psychologist from DuBois Regional Medical Center (DRMC) and Allegheny General Hospital (AGH) show that Lou Ann was initially stabilized on 8/24/01, at DRMC's ER after a large tree limb fell at night from a tree, onto her tent, while she was camping at a local park. According to ER records at AGH, where she was transported by helicopter, Lou Ann was a "life or death" admission to their facility with "Skull Fractures and Coma, NOS" (Earl Floyd Scott, MD, 9/17/01), among many other injuries. Dr. Ahmed Halal indicated on his discharge summary of 9/14/01 that Lou Ann had a "positive loss of consciousness and amnesia." She required mechanical ventilation for more than 4 days to survive and was treated in the hospital's Neuro ICU due to her brain injuries and status. Because of agitation and disorientation, Lou Ann was placed on Ativan and Haldol during her stay in the NICU. She eventually was stepped down to a regular unit, where she stayed for the remainder of her acute hospitalization. She was transferred three weeks after the injury to DRMC's Rehabilitation Unit for a one week stay, mostly due to safety issues resulting from her brain injury. Dania Fischetti from AGH's Neuropsychology department wrote on her consult of 9/12/01, "Supervision is recommended, particularly when safety is an issue."

At DRMC, Lou Ann was admitted by Psychiatrist, Laun Hallstrom, M.D. on 9/14/01 and diagnosed with "status post facial trauma with history of subarachnoid hemorrhage and subdural hemorrhage." He ordered a plan of rehabilitation that included "supervision outside of the room associated with impulsivity" as well as a neuropsychological evaluation. This evaluation was conducted by Dr. Gregory Martino on 9/18/01 with the following findings: "General intellectual status was . . . in the low average range which was . . . significantly below expectation given her reported experiential background; Notable deficits were indicated in higher-level reasoning, information processing, and working memory abilities." Dr. Martino further stated that ". . . she is not a good candidate for employment . . ." and recommended "follow-up neuropsychological evaluation in 6-9 months." He also recommended that she refrain from performing potentially dangerous tasks that require adequate working memory, spatial reasoning, speeded response, and higher-level reasoning skills . . ." Lou Ann was discharged home on 9/19/01 with constant supervision for ambulation due to "traumatic brain injury with impulsivity and cognitive deficits" (L. Hallstrom, M.D., Discharge Summary 9/19/03). She returned to her home with supervision of family and Home Health Speech

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Therapy for cognitive deficits and an assortment of follow-up medical appointments, medications, and other instructions.

Evaluation:

As is often the case status post traumatic head injury, Lou Ann developed a rather severe depression about six months after the accident which caused her to be sad, feel more discouraged, lack motivation, avoid social contact with others, and lose all interest in previously enjoyed activities. I was referred her case in March 2002 by a Speech Therapist who was providing cognitive rehabilitation to her, at the time, on an outpatient basis. I first saw Lou Ann on 3/25/02 with diagnoses of Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She demonstrated decreased speed of cognition, flat affect with downward, left-facing gaze, and significantly depressed and anxious mood. She also, still had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). As my specialty is in working with adjustment to serious injury/illness, I assessed and worked with her depression and family issues related to her life-changing injury. We decided on a plan of regular outpatient psychotherapy that included psychoeducation of traumatic brain injury and sequelae, cognitive-behavioral therapy of depression and anxiety, marital therapy for education and grief/loss processing, and consultation with her PCP related to the pharmacotherapy of her depression, anxiety, and cognitive symptoms.

Treatment:

Sessions have continued to this date, averaging weekly to biweekly depending upon her status. As of this date, I have seen her (or her family) a total of 35 sessions. Although she has made relatively good progress in adjusting to her losses, she suffers a setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Lou Ann has been hospitalized for continuing facial surgery in June of 2002 and then again in September 2002. After each surgery, Lou Ann has experienced a return of severe depression combined with a decline in cognitive abilities that resulted in major changes in her psychopharmacology and psychotherapy each time. After the June surgeries it took two months of weekly psychotherapy and changes/increases in her antidepressants and hypnotics for her to return to her pre-June level of mood and cognition. Her most recent hospitalization in September of 2002 was especially difficult with Lou Ann requiring extensive changes in her antidepressant medication and weekly psychotherapy to continue functioning semi-independently. It took until January of 2003 for her to return to the level of mood and cognition that she achieved just two months after the June surgery. She also received surgery in August of 2002 and April of 2003 but was not admitted into the hospital nor received any general anesthetics.

As one of goals of our treatment plan was to consult with her PCP regarding pharmacotherapy of depression, anxiety, and cognition, regular contacts with Dr. Joseph Vetrano were completed. At least three different medication strategies were tried until the current regimen of Wellbutrin, Buspar, and Trazadone for her emotional and cognitive difficulties was achieved. Please contact Dr. Vetrano for exact medication dosages and times as he is the prescriber of record. She has had two major changes in her antidepressant medications since June of 2002. Due to her severe mood decrease after the June surgery, Dr. Vetrano placed her on Remeron in July with very poor results. She did not improve in mood or sleep and gained over 10 pounds. He stopped this medication and restarted the Luvox, Trazadone and Ambien. She recovered fairly well and went into the surgery in

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September with only a mild level of depressive symptoms and good sleep on the Trazadone. Unfortunately, Lou Ann became very depressed after the extensive surgery in September and more medication changes were tried. She was started on Wellbutrin due to her depression, cognition, and tobacco addiction. Her surgeon in Pittsburgh was concerned about low calcium levels and inadequate bone healing in the presence of regular cigarette smoking. It took an extended time for the Wellbutrin to show its expected antidepressant effect on Lou Ann. Lou Ann has shown slow but continued improvement in her recovery from the most recent exacerbation of depression. We have met weekly (on average) from September through December (2002) with improvements in her depression but continued reports of anxiety and agitation. I met with her PCP, Dr. J. Vetrano on 12/31/02 and requested his assistance with this continuing issue. He prescribed Buspar 5 mgs. bid, (in addition to her Wellbutrin and Trazadone) and Lou Ann began this additional treatment later that day. The addition of the Buspar seems to have given Lou Ann the antidepressant and anxiolytic effect she needed while giving her the additional benefits of improved smoking control and better perceived cognition. Psychotherapy continued 3-4 times per month until her latest surgery in April. After a period of physical recovery, we are re-starting therapy with our next session scheduled May 19, 2003. Phone consultations have been provided on an as needed basis to Lou Ann and her husband on an as needed basis since we began treatment in March of 2002.

Current Functioning Status:

This examiner's current diagnosis of Lou Ann continues to be Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She still has difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). We continue to work with her depression and family issues related to her life-changing injury. It is quite clear that she continues to have cognitive slowing and problems with multitasking, although she is now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting, and crafts. Lou Ann is not capable of handling any complex life planning, money handling, or legal decision-making. Fortunately, Lou Ann does have insight into her losses and current condition and defers these decisions to her husband.

Although she has made some progress in adjusting to her losses, she suffers a cognitive and emotional setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Recent surgeries were in June, August, and September (of 2002) and in April of 2003, with more pending in the future. Emotionally, she has shown recovery from her surgeries to her pre-surgery baseline level.

Prognosis:

This psychologist has met with Lou Ann a total of 35 times over the last 14 months for treatment of symptoms of depression, anxiety, family stress, and decreased cognition that were not a part of her life before the traumatic head injury of August 2001. Although this examiner is not a Neuropsychologist, it is obvious that Lou Ann Tylwalk cannot return to her job as a control-room operator now or in the future. As it has been over a year and a half since the accident and brain injury, with very little further cognitive recovery expected from this point, it would be dangerous to subject Lou Ann and/or others at the plant to the possibility of mistakes in judgment resulting from this injury. Her continued reconstructive surgical status combined with her ongoing mood

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fluctuations would also preclude any other gainful work in the near future (2-3 years). Further prognosis past this point will require neuropsychological, psychological, and occupational testing to determine physical, cognitive, and emotional readiness for employment.

Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life.

Respectfully submitted,



Ronald M. Lingle, MA

Psychologist

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Your Benefits

The following chart shows your benefit amount(s) before any deductions or rounding. The amount you actually receive(s) may differ from your full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

Beginning Date	Benefit Amount	Reason
February 2002	\$1,696.90	Entitlement began
December 2002	\$1,720.60	Cost-of-living adjustment

Information About Lawyer's Fees

We have approved the fee agreement between you and your lawyer.

Your past-due benefits are \$22,120.00 for February 2002 through February 2003. Under the fee agreement, the lawyer cannot charge you more than \$5,300.00 for his or her work. The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports). This is a matter between you and the lawyer.

How To Ask Us To Review The Determination On The Fee Amount

You, the lawyer or the person who decided your case can ask us to review the amount of the fee we say the lawyer can charge.

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter. Tell us that you disagree with the amount of the fee and give your reasons. Send your request to this address:

Social Security Administration
Office of Hearings and Appeals
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The lawyer also has 15 days to write us if he or she thinks the amount of the fee is too low.

If we do not hear from you or the lawyer, we will assume you both agree with the amount of the fee shown.

Information About Past-Due Benefits Withheld To Pay A Lawyer

Because of the law, we usually withhold 25 percent of the total past-due benefits to pay an approved lawyer's fee. We withheld \$5,530.00 from your past-due benefits to pay the lawyer.

Do You Disagree With The Decision?

You have already been notified of your appeal rights regarding the decision made by the Administrative Law Judge and what you must do to have that decision reexamined. If you believe that any other determination made by us in carrying out the Administrative Law Judge decision is incorrect, you may also request that part of your case be reexamined.

If you want this reconsideration, you may request it through any Social Security office. If additional evidence is available, you should submit it with your request. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim". It contains more information about the appeal.

Things To Remember For The Future

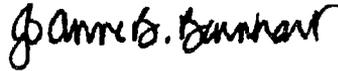
Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

If You Have Any Questions

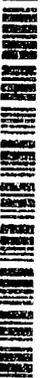
We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-814-371-8099. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
480 JEFFERS STREET
DUBOIS, PA 15801

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.



Jo Anne B. Barnhart
Commissioner
of Social Security



PAYMENT SUMMARY

Your Payment Of \$18,310.00

Here is how we figured your first payment:

Benefits due for February 2002
 through March 2003
 including any cost of living increase,
 less monthly rounding of benefits \$23,840.00

Amount we subtracted because of

- money to pay your lawyer 5,530.00

This equals the amount of
 your first payment \$18,310.00

Your Regular Monthly Payment

Here is how we figured your regular monthly payment effective April 2003:

You are entitled to a monthly benefit of \$ 1,720.60

Amount we subtracted because of

- rounding (we must round down to a whole dollar)60

This equals the amount of
 your regular monthly payment \$ 1,720.00

**SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals**

DECISION

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk
(Claimant)

Period of Disability and
Disability Insurance Benefits

(Wage Earner)

160-48-3192
(Social Security Number)

PROCEDURAL HISTORY & JURISDICTION

The claimant protectively filed the instant application for disability insurance benefits on May 15, 2002 (Exhibits 1D-2D), alleging disability due to problems with reasoning, short-term memory, and multiple tasking due to head injuries, and post traumatic stress syndrome (Exhibit 2E). Following denial of her claim initially, the claimant timely filed a request for hearing which is presently before the undersigned.

ISSUES

The general issue is whether the claimant is entitled to a Period of Disability and to Disability Insurance Benefits under Sections 216(i) and 223 of the Social Security Act. The specific issue is whether she is under a disability, defined as the inability to engage in any substantial gainful activity by reason of an impairment expected either to result in death or last for a continuous period of at least 12 months.

An additional issue pertains to insured status. Information contained in the claimant's earnings record (Exhibit 3D) reveals she acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

CONCLUSION

After giving careful consideration to all of the evidence, the undersigned has concluded that a favorable decision is warranted without the need for testimony. Thus, no hearing was held.

The documentary records support a finding that beginning August 24, 2001, the claimant has had an impairment which meets Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled within the meaning of the Social Security Act and Regulations.

EVALUATION OF THE EVIDENCE

Under the authority of the Social Security Act, the Social Security Administration has established a sequential evaluation process followed in determining disability (20 CFR 404.1520). The first step in this process concerns the question of when the claimant last engaged in substantial gainful activity.

A forty-four year old individual with a high school education (Exhibit 2E), the claimant has past relevant work experience as a power plant control operator (Exhibits 3D; 2E-3E).

The evidence shows the claimant has not worked since alleging disability on August 24, 2001, and consequently, has not been engaging in substantial gainful activity, as defined in 20 CFR 404.1510.

The evidence supports a finding that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are medically determinable, impose limitations with more than a minimal effect on her physical ability to do basic work, and have lasted 12 continuous months or more. Thus, these impairments are "severe" as defined by 20 CFR 404.1520 and Social Security Ruling 85-28.

After reviewing the entire matter, including all pertinent exhibits, the undersigned finds the claimant's impairments meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Regarding the claimant's mental condition, the evidence in this case shows status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression.

Ronald Lingle, M.A., the claimant's treating psychologist, correctly summarized the claimant's treatment as involving hospitalization during August 24 through September 15, 2001 for a traumatic brain injury and multiple skull and facial fractures, and rehabilitation during September 15-19, 1991 (Exhibit 2F).

Mr. Lingle on July 23, 2002 reported the claimant had a poor to nonexistent prognosis of returning to her premorbid employment, given she lacked ability to concentrate and multitask necessary for the job of control room operator at a power plant (Exhibit 22F). He reported she required more facial and oral surgeries, and that it seemed the anesthesia and stress of surgery set her back emotionally and cognitively after each surgery (Exhibit 22F).

Mr. Lingle reported the claimant had fair to poor abilities to make occupational adjustments, good to poor abilities to make performance adjustments, and good to fair abilities to make personal-social adjustments (Exhibit 22F). In particular, she reported the claimant had poor abilities to interact with supervisors, deal with work stresses, function independently, and understand, remember, and carry out complex tasks or job instructions (Exhibit 22F).

Mr. Lingle reported the claimant during weekly psychotherapy for adjustment to traumatic brain injury and her disfiguring life-threatening injury became increasingly anxious and agitated with complex details and information during the sessions (Exhibit 22F). He reported observing decrease in self-care and increase in withdrawal from socialization (Exhibit 22F). He reported the claimant was self-conscious of her facial disfigurement and loss of teeth, and demonstrated increasing anxiety and agitation around others (Exhibit 22F). He reported the claimant had an increase in symptoms of depression and anxiety with her depression being in the severe range of 28 on the Beck Depression Inventory on July 8, 2002 (Exhibit 22F). He reported the claimant could not handle complex information under stress (Exhibit 22F).

Mr. Lingle reported she demonstrated difficulties performing activities of daily living on a daily basis, needed prompting from her husband for personal care, health, and hygiene, and needed help from her husband to shop, maintain her residence, and take care of her health care needs (Exhibit 22F).

Mr. Lingle reported the claimant demonstrated difficulties getting along with others (Exhibit 22F). He reported she had difficulty maintaining a daily household routine and completing all tasks necessary to remember appointments independently (Exhibit 22F). He reported when she was depressed she did not cook, clean, or do most of her activities of daily living without prompting (Exhibit 22F).

Regarding her memory, Mr. Lingle reported the claimant remembered little information between the day of the accident and a number of months thereafter, since her memories did not begin until the claimant's rehabilitation (Exhibit 22F). He reported the claimant could not multitask large amounts of information and overloaded easily (Exhibit 22F). He reported she had trouble with details and complex information (Exhibit 22F). He reported her immediate retention and recall was poor for complex or large amounts of information (Exhibit 22F).

Regarding her impulse control, Mr. Lingle reported the claimant remained quick to anger, irritability, and frustration, and said things she later regretted (Exhibit 22F). He reported the claimant had panic attacks when in crowded rooms (Exhibit 22F).

Mr. Lingle reported the claimant appeared sad and depressed (Exhibit 22F). He reported she had a decreased activity level and stayed in her home more than she did before the accident (Exhibit 22F). He reported she was extremely self-conscious due to her injuries and inability to process information quickly (Exhibit 22F). He reported she had increased irritability and decreased frustration tolerance (Exhibit 22F).

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On December 29, 2002 the claimant provided an update to his July 23, 2002 report (Exhibit 30F). He reported the claimant was hospitalized for continuing facial surgery in June, 2002 and September, 2002, after which she experienced a return of severe depression and a decline in her cognitive abilities (Exhibit 30F). He reported she continued to have poor concentration and memory, and had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (Exhibit 30F). He reported she continued to have cognitive slowing and problems with multitasking (Exhibit 30F). He reported she needed more surgery in the future, but that she continued to suffer setbacks after surgery (Exhibit 30F). He reported very little further cognitive recovery was expected (Exhibit 30F). He concluded if she returned to work she might cause injury to herself or others (Exhibit 30F).

Indeed, controlling weight is afforded Mr. Lingle's assessment, as it is rendered by a treating mental health expert, consistent with the objective and clinical findings of record, and is not otherwise inconsistent with other substantial evidence contained in the case record (Social Security Ruling 96-2p).

Additional medical evidence supporting the findings in Exhibits 22F and 30F is present in Exhibits 3F; 11F-12F; 17F; 29F. Full analysis of these Exhibits is unnecessary given the Undersigned accepts, and finds full support for meeting Listing 12.02 in, Exhibits 22F and 30F.

Based on the above, the undersigned concludes as to activities of daily living, there are marked limitations. As to social functioning, there are marked limitations. As to concentration, persistence, and pace, there are marked limitations. Finally, as to the fourth "B" criteria, there is no evidence the claimant has experienced one or more episodes of decompensation, each of extended duration.

A claimant's mental condition meets the requirements of Listing 12.02, when the claimant has psychological or behavioral abnormalities associated with brain dysfunction, with a history and physical examination or laboratory tests demonstrating the presence of a specific organic factor judged to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The claimant's condition must meet the "C" criteria, or the "A" criteria and two of the "B" criteria regarding activities of daily living, social functioning, maintaining concentration, persistence, or pace, and repeated episodes of decompensation, each of extended duration.

To meet the "A" criteria of Listing 12.02, the claimant needs demonstration of a loss of specific cognitive abilities or affective changes and the medically documented persistence of one of seven conditions. First, disorientation to time and place. Second, a memory impairment, either short-term (inability to learn new information), intermediate, or long-term (inability to remember information that was known sometime in the past). Third, perceptual or thinking disturbances (e.g., hallucinations, delusions). Fourth, change in personality. Fifth, disturbance in mood. Sixth, emotional lability (e.g., explosive temper outbursts, sudden crying, etc.) and impairment in impulse control. Seventh, loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan.

As analyzed above, the claimant's condition meets the requirements of the "A" criteria of Listing 12.02.

As analyzed above, the undersigned concludes the claimant has significant limitations in three of the four "B" criteria, namely, activities of daily living, social functioning, and concentration, persistence, or pace.

In view of the foregoing, it is clear the claimant's mental impairments are severe and meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Because the claimant's mental condition meets the "A" and "B" criteria of Listing 12.02, the "C" criteria need not be analyzed.

In view of the clinical and objective findings, it is clear the claimant's impairments are severe and meet Section 12.02 of Appendix 1, Subpart P, Regulations No. 4. Hence, the claimant is disabled pursuant to Regulations 404.1520(d).

As the claimant is under a disability, the claimant is entitled to receive Disability Insurance Benefits based on her application protectively filed on May 15, 2002.

Regarding the above assessment, a state agency mental health consultant who evaluated the evidence assessed the claimant's condition did not meet the requirements of Listing 12.02 (Exhibits 23F-24F). Although this opinion is entitled to less weight since it was given by a non-examining mental health expert, it is considered a medical opinion and entitled to some weight (Social Security Rulings 96-2p, 96-6p, 96-7p and 96-8p). The state agency mental health consultant was not afforded an opportunity to review the medical evidence received subsequent to her determination. These subsequent reports confirmed the claimant's condition meets the requirements of Listing 12.02.

In view of the severity of the claimant's condition, it appears she would be unable to manage benefits in her own interest. The claimant's treating psychologist reported the claimant could not manage benefits in her own interest (Exhibit 22F). Accordingly, it is recommended she receive benefit payments through a representative payee, specifically her husband.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

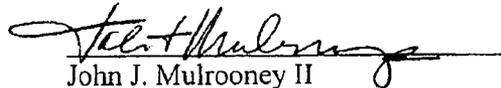
1. The claimant met the disability insured status requirements of the Act on August 24, 2001, the date she stated she became unable to work, and has acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

2. The claimant has not engaged in substantial gainful activity since August 24, 2001 (20 CFR 404.1520(b)).
3. The medical evidence establishes that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are severe within the meaning of the Regulations.
4. The severity of the claimant's mental impairments meets the requirements of Section 12.02, Appendix 1, Subpart P, Regulations No. 4, and has precluded her from working for at least twelve continuous months (20 CFR 404.1525).
5. The claimant has been under a disability since August 24, 2001.
6. The claimant is to receive benefit payments through a representative payee.
7. The claimant has been under a disability as defined by the Social Security Act and Regulations since August 24, 2001 (20 CFR 404.1520).

DECISION

It is the decision of the Administrative Law Judge that, based on the application for disability insurance benefits protectively filed on May 15, 2002, the claimant is entitled to a period of disability commencing August 24, 2001, and to disability insurance benefits under Sections 216(i) and 223, respectively, of the Social Security Act, as amended.

Because there is evidence that the claimant may have difficulty in managing her benefits, the undersigned recommends that the component responsible for effectuating this decision determine whether the appointment of a representative payee is warranted.


John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

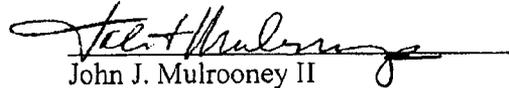
Date

2. The claimant has not engaged in substantial gainful activity since August 24, 2001 (20 CFR 404.1520(b)).
3. The medical evidence establishes that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are severe within the meaning of the Regulations.
4. The severity of the claimant's mental impairments meets the requirements of Section 12.02, Appendix 1, Subpart P, Regulations No. 4, and has precluded her from working for at least twelve continuous months (20 CFR 404.1525).
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7. The claimant has been under a disability as defined by the Social Security Act and Regulations since August 24, 2001 (20 CFR 404.1520).

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Because there is evidence that the claimant may have difficulty in managing her benefits, the undersigned recommends that the component responsible for effectuating this decision determine whether the appointment of a representative payee is warranted.


John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court Order in Holman et al. v. Bowen, (Civ. No. 78-0494, M.D. Pa., May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security Office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800-732-3545.



SOCIAL SECURITY ADMINISTRATION

Refer To: 160-48-3192

Office of Hearings and Appeals
334 Washington Street, Suite 200
Johnstown, Pennsylvania 15901
Telephone: (814) 533-4462

Date: FEB 28 2003

Lou A. Tylwalk
119 S. High Street
Clearfield, PA 16830

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

If You Disagree With The Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal, you or your representative, if you choose to appoint one, must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Hearings and Appeals, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with my decision and you file a new application instead of appealing, you might lose some benefits, or not qualify for any benefits. My decision could also be used to deny a new application for insurance benefits, if the facts and issues are the same. So, if you disagree with this decision, you should file an appeal within 60 days.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (724)371-8099. Its address is 480 Jeffers Street, Dubois PA 15801.

cc: Gerald W. Foulds, Esquire
955 Liberty Ave Ste 402
Pittsburgh, PA 15222

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. Part No. No.	Description	No. of Pages
<u>MEDICAL RECORDS</u>		
1	F Emergency Room Records dated 8/2/01 from Clearfield Hospital	4
2	F Emergency Room Records dated 8/24/01 from DuBois Regional Medical Center	27
3	F Neuropsychological Screening Evaluation dated 9/18/01 from Gregory M. Martino, Ph.D.	3
4	F Hospital Records for admission on 8/24/01 through discharge on 9/14/01 from Allegheny General Hospital	42
5	F Hospital Records for admission on 9/14/01 through discharge on 9/19/01 from DuBois Regional Medical Center	40
6	F MRI - Orbits and Facial dated 9/27/01 from Rudy J. Nicolas, MD	2
7	F Hospital Records for admission on 10/1/01 through discharge on 10/4/01 from Clearfield Hospital	12
8	F Medical Report dated 10/15/01 from David Oliver-Smith, MD	2
9	F Record of Operation dated 11/2/01 from Allegheny General Hospital	3
10	F Outpatient records dated 11/9/01 through 11/12/01 from Clearfield Hospital	10
11	F Clearfield Hospital Home Health Services records dated 10/5/01 through 11/14/01	7
12	F Outpatient speech/language therapy records dated 9/19/01 through 12/6/01 from DuBois Regional Medical Center	7
13	F Evaluation record dated 1/25/02 from Allegheny General Neuro-Ophthalmology Dept.	4
14	F Hospital Records for admission on 2/1/02 through discharge on 2/2/02 from Allegheny General Hospital	6
15	F Hospital Records for admission on 3/1/02 through discharge on 3/3/02 from Clearfield Hospital	12
16	F Letter dated 3/4/02 from Richard E. Johnson, DO	1

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. Part No. No.	Description	No. of Pages
17 F	Clearfield Hospital Home Health Services records dated 3/8/02 through 3/27/02	7
18 F	Medical Records covering the period from 9/28/01 to 5/7/02 from Joseph A. Vetrano, MD	21
19 F	Hospital Records for admission on 6/14/02 through discharge on 6/15/02 from Allegheny General Hospital	11
20 F	Report of Contact with Dr. Johnson dated 7/3/02	1
21 F	Medical Records covering the period from 9/25/01 to 7/16/02 from Guy A. Catone, DDS	22
22 F	Psychological Evaluation dated 7/23/02 by Ronald M. Lingle, M.A.	7
23 F	RFC - Residual Functional Capacity Assessment - Mental (completed by DDS physician) dated 7/26/02	4
24 F	Psychiatric Review Technique Form (completed by DDS physician) dated 7/26/02	15
25 F	RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 7/31/02	8
26 F	Hospital Records dated 08/23/02 from Allegheny General Hospital	10
27 F	Hospital Records for admission on 09/27/02 through discharge on 09/30/02 from Allegheny General Hospital	17
28 F	Medical Records covering the period from 10/15/01 to 10/22/02 from Guy A. Catone, D.D.S. (duplicates removed)	16
29 F	Medical Records covering the period from 07/08/02 to 11/08/02 from Joseph Vetrano, M.D. (duplicates removed)	8
30 F	Medical Report dated 12/29/02 from Ronald M. Lingle, MA	4

LIST OF EXHIBITS

CLAIMANT: LOU A. TYLWALK SSN: 160-48-3192

W/E: _____ SSN: _____
(if applicable)

PAYMENT DOCUMENTS/DECISIONS

Section A contains paperwork that shows decisions made by the Social Security Administration and payment documents. Each set of documents is labeled with the section number and numerically as exhibit.

Section A consists of 1 exhibits.

JURISDICTIONAL DOCUMENTS/NOTICES

Section B contains jurisdictional documents (essential paperwork for processing applications and claims). Section B contains notices sent out in the case. Each set of documents is labeled with the section number and numerically as an exhibit.

Section B consists of 6 exhibits.

Section C ordinarily will be empty.

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 3 exhibit.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 8 exhibits.

Part A (Yellow) - Payment Documents/Decisions
Part B (Red) - Jurisdictional Documents/Notices
Part D (Orange) - Non-Disability Development
Part F (Blue) - Disability Related Development and Documentation

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income
Part (DWB) - Disabled Widow/Widower

R o n a l d M . L i n g l e , P s y c h o l o g i s t

March 23, 2004

Carl A. Belin, Jr. Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk **DOB:** 10/25/1958

Dear Mr. Belin,

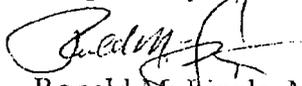
Pursuant to our conversation of 3/12/2004, please accept the following clarification of my opinion expressed in a "Report of treatment history" dated 5/16/2003.

Under the "Prognosis" section of the report on page 4, I stated that *Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity, as her past excellent work record is a source of pride and self-esteem for Lou Ann.* I would like to clarify that when that report was written, Lou Ann was having a difficult time grieving the loss of her former active and working life and I did not want to imply in a document that she may have access too, that she could never work in any capacity, ever again. As Lou Ann was/is on two antidepressants, and anti-anxiety pill, and a sleeping pill, I wanted to express some hope in my letter to you, even though **I do not now and never believed that she would work in any capacity again.** Please understand that in my profession, we write every note and letter as if the patient is reading them. As you know, they own the medical record and can see it at any time by law.

Therefore, as Lou Ann Tylwalk's treating psychologist, it is my opinion that Lou Ann Tylwalk is totally and permanently disabled from performing any work in any capacity for the remainder of her life.

I am hopeful that this clarification is helpful and am available to discuss this issue as needed.

Respectfully submitted,



Ronald M. Lingle, MA
Psychologist

P . O . B o x 1 2 • H y d e , P A • 1 6 8 4 3 - 0 0 1 2
P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

RECEIVED

JUN 1 1 2004

Prudential  **Financial**

Minnie Titus-Glover
Manager, Claim Operations

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

Phone: (800) 524-0542 Ext: 7130
Fax: (973) 548-7530
Hours: 8:30 am to 4:30pm

June 1, 2004

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Ms. Tylwalk:

We have completed our review of your written request for reconsideration of our decision to disallow your claim for the continuation of your Group Life Insurance During Total and Permanent Disability under Group Policy G-90452 issued to Sithe Energies, Inc. We have determined that our decision was appropriate and have upheld our decision to disallow your claim. This letter outlines the reasons for this determination.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Requirements

In order to be eligible for this benefit you had to become Totally and Permanently Disabled while a covered individual and less than age 60.

Total Disability: You are "Totally Disabled" when:

1. You are not working at any job for wage or profit; and
2. Due to Sickness, Injury or both, you are not able to perform for wage or profit, the material and substantial duties of any job for which you are reasonably fitted by your education, training or experience.

You are Totally and Permanently Disabled when:

- 1) Total Disability exists; and
- 2) Your Total Disability is such that condition (2) of the above Total Disability definition will be met for the remainder of your life time.

Exhibit "E"

JUN 1 1 2004

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

Phone: (800) 524-0542 Ext: 7130
Fax: (973) 548-7530
Hours: 8:30 am to 4:30pm

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

June 1, 2004

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119 S. High Street
Clearfield, PA 16830

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1. You are not working at any job for wage or profit; and
2. Due to Sickness, Injury or both, you are not able to perform for wage or profit, the material and substantial duties of any job for which you are reasonably fitted by your education, training or experience.

You are Totally and Permanently Disabled when:

- 1) Total Disability exists; and
- 2) Your Total Disability is such that condition (2) of the above Total Disability definition will be met for the remainder of your life time.

Your claim for Total and Permanent Disability was disallowed because we determined that documentation did not support a mental, physical, or combination of impairments that would prevent you from performing the duties of any occupation for the remainder of your lifetime. A complete explanation of our decision can be found in our letter dated December 22, 2003.

Medical Information

Information provided with your Appeal included a medical report from Pittsburgh Facial and Oral Surgery, dated May 05, 2003, a request for report treatment history from Dr. Lingle, dated May 16, 2003, a copy of your Social Security Disability Insurance award report dated April 4, 2003, and a narrative from Dr. Lingle, dated March 23, 2004.

Prudential's Medical Director has thoroughly evaluated the documentation in the file as well as the documentation received for the purpose of your appeal.

In a letter dated November 26, 2003, with an extract from psychologist, Dr. Ronald Lingle, you underlined the last statement, "however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life".

To substantiate the above underlined statement you included a 'Request for report of treatment history', dated May 16, 2003 by Dr. Lingle. In this report, Dr. Lingle's assessment of your current functioning status indicates that his office has continued to work with you for your depression and family issues related to your life-changing injury.

Dr. Lingle also notes that it is quite clear that you continue to have cognitive slowing and problems with multitasking. However, you are now able to be alone at home for longer periods and are completing a number of household tasks such as washing dishes, running the sweeper, dusting and crafts. He notes that you are not capable of handling any complex life planning, money handling or legal decision-making, and fortunately, you do have insight into your losses and current condition and defer these decisions to your husband.

Dr. Lingle opines that, although you have made some progress in adjusting to your losses, you do suffer a cognitive and emotional setback each time you undergo corrective surgery for your accident-related injuries. Emotionally, you have shown recovery from your surgeries to your pre-surgery baseline level every time.

Dr. Lingle also opines that it is obvious you cannot return to your previous job as a control-room operator now or in the future, and that your continued reconstructive surgical status combined with your ongoing mood fluctuations would also preclude you from any other gainful work in the near future.

Finally Dr. Lingle stated that both he and you are hopeful that you can eventually return to the workforce in some capacity as your past excellent work record is a source of pride and self esteem.

Summary

Although you may continue to suffer from symptoms which prevent you from performing your own occupation as a control room operator, based on the most recent medical documentation in file, we are unable to conclude that your disability prevents you from performing any occupation for which you are qualified based on your education and training for the remainder of your life time. Therefore, you do not meet the definition of Total Disability as defined by this Group Policy, and we are unable to approve your claim.

You may again appeal this decision to Prudential's Appeals Committee for a final decision. If you elect to do so, the appeal must be made in writing by you or your authorized representative. Your appeal must be submitted within 180 days of the receipt of this letter. The appeal may identify the issues and provide other comments or additional evidence you wish considered. You are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to your claim. Please forward your appeal request to me at the above address.

A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Appeals Committee expects to render a decision shall be furnished to you within the initial 45-day period. However if the Appeals Committee requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

Please note that this third appeal is voluntary. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal. You may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the above address or call (800) 524-0542, extension 7130. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,

Minnie Titus-Glover
Manager, Claim Operations

COMMONWEALTH OF PENNSYLVANIA :
 : SS.
COUNTY OF CLEARFIELD :

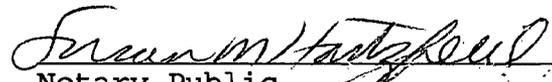
Before me, the undersigned Officer, personally appeared
LOU ANN TYLWALK, who being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Complaint
are true and correct to the best of her knowledge, information
and belief.



Lou Ann Tylwalk

SWORN AND SUBSCRIBED before me this 13th day of

August, 2004.



Notary Public



BELIN & KUBISTA
ATTORNEYS AT LAW
15 NORTH FRONT STREET
BOX 1
CLEARFIELD, PENNSYLVANIA 16830

FILED

AUG 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK,

Plaintiff

No. 04-1239-C.D.

vs.

CERTIFICATE OF
SERVICE

PRUDENTIAL INSURANCE COMPANY and

RELIANT ENERGY,

Defendants

Filed on behalf of:
Plaintiff

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA

15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED
013:03AM
AUG 31 2004
EGR
cc

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK,

Plaintiff

No. 04-1239-C.D.

vs.

PRUDENTIAL INSURANCE COMPANY and

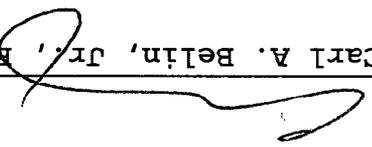
RELIANT ENERGY,

Defendants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has served a certified copy of Plaintiff's Complaint in the above-captioned matter on the following party by certified mail, return receipt requested, on August 16, 2004. Said return receipt is attached hereto and made a part hereof.

BRLIN & KUBISTA

By  Carl A. Berlin, Jr., Esquire

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540	
2. Article Number (Transfer from service label) 7003 3110 0001 9380 9407	
1. Article Addressed to: Prudential Insurance Company of America P.O. Box 482 Livingston, NJ 07039	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	
SENDER: COMPLETE THIS SECTION	
A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> Agent	
B. Received by (Printed Name) <input type="checkbox"/> <i>[Signature]</i> C. Date of Delivery 8/16	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
COMPLETE THIS SECTION ON DELIVERY	

In The Court of Common Pleas of Clearfield County, Pennsylvania

TYLWALK, LOU ANN

Sheriff Docket# 16102

VS.

04-1239-CD

PRUDENTIAL INSURANCE COMPANY & RELIANT ENERGY

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 30, 2004 AT 9:50 AM SERVED THE WITHIN COMPLAINT ON RELIANT ENERGY, DEFENDANT AT EMPLOYMENT, SHAWVILLE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KEN BILLOTTE, GEN. MGR. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: NEVLING

Return Costs

Cost	Description
22.87	SHERIFF HAWKINS PAID BY: ATTY CK# 18139
10.00	SURCHARGE PAID BY: ATTY CK# 18140

Sworn to Before Me This

2nd Day Of Sept. 2004

William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins

Chester A. Hawkins
Sheriff

FILED ^{EGK}

012:36301
SEP 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL DIVISION

LOU ANN TYLWALK

Plaintiff,

v.

THE PRUDENTIAL INSURANCE COMPANY
and RELIANT ENERGY

Defendants.

No. 04-1239-CD

204
FILED 2 cc
m/10:44 AM Atty
SEP 13 2004 Dryer

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE OF REMOVAL TO FEDERAL COURT

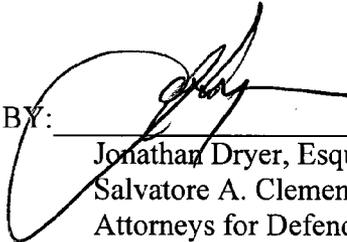
TO THE PROTHONOTARY:

PLEASE TAKE NOTICE that defendant, by its attorneys, has filed a Notice of Removal in the United States District Court for the Western District of Pennsylvania.

A copy of said Notice of Removal is attached to this Notice, and is served and filed herewith. Please take all necessary actions to transfer the file to the Clerk of Court for the United States District Court for the Western District of Pennsylvania.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

BY: 

Jonathan Dryer, Esquire
Salvatore A. Clemente, Esquire
Attorneys for Defendant
Prudential Insurance Company

Dated: September 8, 2004

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LOU ANN TYLWALK

(b) County of Residence of First Listed Plaintiff Clearfield
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address and Telephone Number)

Carl A. Belin, Jr., Esquire
Belin and Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

DEFENDANTS

PRUDENTIAL INSURANCE COMPANY and
RELIANT ENERGY

County of Resident of First Listed New Jersey
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: INLAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Jonathan Dryer, Esquire
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
The Curtis Center, Suite 1130 East
Philadelphia, PA 19106
(215) 627-6900

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1. U.S. Government Plaintiff
 2. U.S. Government Defendant
 3. Federal Question (U.S. Government Not a Party)
 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for (For Diversity Cases Only) and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of this State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporates or Principal Place Of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporates and Principal Place Of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liab. <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Prod. Liab. PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

(PLACE AN "X" IN ONE BOX ONLY)

V. ORIGIN

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 20,000 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE: _____ DOCKET NUMBER _____

DATE SIGNATURE OF ATTORNEY OF RECORD

September 8, 2004

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clark of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clark of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suite by agencies and officers of the United States, are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a part, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie x Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venango or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset, OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____, Judge _____.
2. x This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit, or involves the same issues of fact or it grows out of the same transactions as another suit, or involves the validity or infringement of a patent involved in another suit.

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lead themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

1. **CIVIL CATEGORY** (Place x in only applicable category).

1. () Antitrust and Securities Act Cases
2. () Labor-Management Relations
3. () Habeas Corpus
4. () Civil Rights
5. () Patent, Copyright, and Trademark
6. () Eminent Domain
7. () All other federal question cases
8. () All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest.
9. () Insurance indemnity, contract, and other diversity cases.
10. () Government Collection Cases (shall include HEW Student Loans (Education), VA Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, S.B.A. Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct.

Date: September 8, 2004

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH SIDES MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LOU ANN TYLWALK,
Plaintiff,

v.

THE PRUDENTIAL INSURANCE COMPANY
and RELIANT ENERGY,
Defendants.

CIVIL ACTION

NO.

DISCLOSURE STATEMENT

Pursuant to Local Rule 3.2 of the Western District of Pennsylvania and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for The Prudential Insurance Company of America in the above captioned action, certifies that the following are parents, subsidiaries and/or affiliates of said party that may have issued shares or debt securities to the public:

71 Hanover Florham Park Associates LLC
745 Property Investments
ARL Holdings, Inc.
Asian Infrastructure Mezzanine Capital Fund
Beagle Assets LLC
Big Yellow Holdings Limited
Bree Investments Limited
Colico II, Inc.
COLICO, INC.
Dryden Finance II, LLC
Dryden Finance, Inc.
Dryden Holdings Corporation
Flor-Ag Corporation
Gibraltar Properties, Inc.
Mulberry Portfolio Company, LLC
PAMA Fund I Parallel Investment, LLC
PGA Asian Holdings Ltd.
PGA Asian Retail Limited
PGA European Holdings, Inc.
PGA European Limited
PIC Realty Canada Limited
PIC Realty Corporation
PPCP-I Holding Co., LLC
PPCP-II Holding, Co., LLC
PRICOA China (Warehouse) Limited
PRICOA Funding Limited
PRICOA GA Paterson, Ltd.
PRICOA Investment Company
Pru 101 Wood LLC
Pruco Life Insurance Company
Pruco Securities, LLC
Prudential Direct, Inc.
Prudential Financial Securities Investment Trust
Enterprise
Prudential Funding, LLC

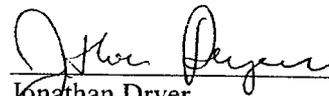
Mulberry Muni Investors DA No. 1, Inc.
Mulberry Muni Investors GLTC No. 1, Inc.
Mulberry Muni Investors GLTC No. 2, Inc.
Mulberry Muni Investors ILLT No. 1, Inc.
Mulberry Muni Investors ILST No. 1, Inc.
Mulberry Muni Investors PA No. 1, Inc.
Mulberry Muni Investors PLAZIL No. 1, Inc.
Mulberry Muni Investors PLAZIL No. 2, Inc.
Pruco Reinsurance Ltd.
PRUCO, Inc.
Prudential Asset Management Holding Company
Prudential Financial Capital Trust I
Prudential Holdings, LLC
Prudential IBH Holdco, Inc.
Prudential International Insurance Holdings, Ltd.
Prudential International Insurance Service
Company, L.L.C.
Prudential International Investments Corporation
Prudential International Investments, LLC
Prudential Japan Holdings, LLC
Prudential Management Canada Ltd.
Prudential Real Estate and Relocation Services, Inc.
Prudential Realty Holding Company, Inc.
Prudential Retirement Financial Services Holding
LLC
Skandia U.S. Inc.
The PSI Programs LLC
Vantage Casualty Insurance Company

123372.1
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

Prudential Global Funding, Inc.
Prudential Home Building Investment Advisers, L.P.
Prudential Realty Securities II, Inc.
Prudential Realty Securities, Inc.
Prudential Resources Management Asia Limited
Prudential Seguros, S.A.
Prudential Select Holdings, Inc.
Prudential Structured Settlement Company
Rerun Assets LLC
Residential Services Corporation of America
SMP Holdings, Inc.
SouthStreet Software, L.L.C.
SVIIT Holdings, Inc.
The Prudential Assigned Settlement Services Corp.
Washington Street Investments LLC

Date: August 8, 2004



Jonathan Dryer
Attorney for Defendant,
The Prudential Insurance Company
of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LOU ANN TYLWALK	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	NO.
	:	
THE PRUDENTIAL INSURANCE COMPANY	:	
and RELIANT ENERGY	:	
	:	
Defendants.	:	
	:	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Pursuant to 28 U.S.C. § 1446 Defendant Prudential Insurance Company of America (hereinafter "Prudential"), by their undersigned counsel, hereby remove this action to the United States District Court for the Western District of Pennsylvania from the Court of Common Pleas of Clearfield County, Pennsylvania, bearing Index Number 04-01239, on the following grounds:

1. Plaintiff Lou Ann Tylwalk commenced a civil action, entitled, Lou Ann Tylwalk, Plaintiff, v. Prudential Insurance Company and Reliant Energy, Defendants, in the Court of Common Pleas, Clearfield County on or about August 12, 2004 in the State of Pennsylvania baring Index Number 04-01239. A copy of the Complaint with exhibits is annexed hereto as Exhibit "A."

2. This Notice of Removal is timely under Section 1446(b) of Title 28 of the United States Code because the plaintiff's initial pleadings, (e.g., the Complaint), in this action was

served on defendant's office on or after August 12, 2004. Inasmuch as this Notice of Removal is filed within 30 days of receipt of the plaintiff's initial pleadings, it is timely filed under 28 U.S.C. § 1446(b).

3. There have been no other proceedings in this action.

4. Pursuant to provisions of Sections 1441 and 1446 of Title 28 of the United States Code, Defendant requests removal of this action to the United States District Court for the Western District of Pennsylvania, which is the judicial district in which the action pending.

5. Because the matter in controversy is founded upon a claim or right arising under the laws of the United States, this action is one over which the United States District Court has original jurisdiction under the provisions of 28 U.S.C. §1331 and pursuant to the Employee Retirement Income Security Act of 1974 ("ERISA") 29 U.S.C. §1001, *et seq.*, this action may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1441(b).

6. Because jurisdiction over the subject matter of this action is conferred on this Court by 28 U.S.C. §1331, this action may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1441(b).

7. Defendants upon filing the within Notice of Removal in the office of the Clerk of the United States District Court for the Western District of Pennsylvania, have also filed copies of this Notice with the Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania to effect removal of this action to the United States District Court pursuant to 28

U.S.C. § 1441 and 28 U.S.C. § 1446(b). Annexed hereto as Exhibit "B" is the Notice filed with the Court of Common Pleas of Clearfield County.

8. The grounds for the removal of this action are based on the allegations contained in plaintiff's Complaint which deal exclusively with issues arising under the provisions of the Employee Retirement Income Security Act of 1974, (hereinafter referred to as "ERISA"), [29 U.S.C. §§1001 et seq.].

9. All claims for relief asserted by the plaintiff in his action all arise out of the same set of facts and are part of the same case and controversy, so that this court has supplemental jurisdiction of them within the meaning of 28 U.S.C. §1367(a).

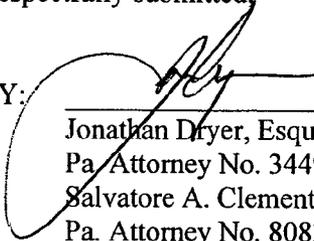
10. There is a complete and total preemption of state laws affecting ERISA cases under the provisions of Section 1144 of Title 29.

11. Removal of this action is, therefore, proper under Section 1441 of Title 28 of the United States Code because it is a civil action brought in state court over which the federal district courts would have had original jurisdiction had the action been commenced in a federal court.

12. Pursuant to the provisions of 28 U.S.C. § 1446(a), copies of all state-court papers which have been served on the defendant at, or before, the time of removal, (consisting of the Complaint) is annexed to this notice as Exhibit "A" and is incorporated by reference.

13. It is respectfully requested that, upon the removal of this action to this Court, it be immediately transferred [pursuant to the provisions of 28 U.S.C. § 1406(a)] to the United States District Court for the Western District of Pennsylvania.

Respectfully submitted,

BY: 

Jonathan Dryer, Esquire
Pa. Attorney No. 34496
Salvatore A. Clemente, Esquire
Pa. Attorney No. 80830
Attorneys for Defendant
Prudential Insurance Company
Wilson, Elser, Moskowitz,
Edelman & Dicker LLP
The Curtis Center, Suite 1130E
Philadelphia, PA 19106
Ph. (215) 627 6900
Fx. (215) 627 2665

Dated: September 9, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK,

Plaintiff

vs.

PRUDENTIAL INSURANCE COMPANY and
RELIANT ENERGY,

Defendants

No. 04 - - C.D.

No: 04-1239-CD

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

(814) 765-2641 Ex 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LOU ANN TYLWALK, :
 :
 Plaintiff :
 :
 vs. : No. 04 - - C.D.
 :
 :
 PRUDENTIAL INSURANCE COMPANY and : COMPLAINT
 RELIANT ENERGY, :
 :
 Defendants :

COMPLAINT

AND NOW comes Plaintiff Lou Ann Tylwalk, by and through her attorneys, Belin & Kubista, and files the following complaint and in support thereof avers as follows:

1. That Lou Ann Tylwalk is an individual who resides at 119 South High Street, Clearfield, Pennsylvania 16830 ("Tylwalk").
2. That Prudential Insurance Company of America is an insurance company doing business in the State of Pennsylvania which maintains an office with regard to disability claims at P.O. Box 482, Livingston, New Jersey 07039 ("Prudential").
3. That Reliant Energy is a company which does business in the State of Pennsylvania and which operates a power plant in the Village of Shawville, Clearfield County, Pennsylvania ("Reliant").

4. That Lou Ann Tylwalk was an employee of Reliant Energy until she suffered an accident unrelated to her employment on August 24, 2001.

5. That at the time of her injury, Reliant Energy provided among its benefits a group life insurance policy providing for total disability benefits payable to Lou Ann Tylwalk for total and permanent disability under Group Policy G-90452.

6. That as a result of her accident, Lou Ann Tylwalk is totally and permanently disabled.

7. That said Group Policy provided that in the event an employee is totally and permanently disabled they are to receive \$20,000.00 of their group life insurance paid to them in one lump sum.

8. That said policy also provides that her group life insurance is to continue during the total disability.

9. That Lou Ann Tylwalk applied for her benefits under the plan to the administrator of the group life insurance policy, Christopher J. Caruso of Prudential who issued an opinion on September 22, 2003, denying her benefits for the \$20,000.00 and provided for the continuance of her group life insurance but provided for the reduction of the amount of said

policy. A copy of said decision is hereto attached and marked Exhibit "A."

10. That on November 26, 2003, Lou Ann Tylwalk appealed from said decision by letter which is dated November 26, 2003, which is hereto attached and marked Exhibit "B."

11. That on December 22, 2003, Umbalita Mingo, Associate Disability Manager of Prudential, issued a decision upholding their decision to deny the claim. A copy of said decision is hereto attached and marked Exhibit "C."

12. That on April 5, 2004, Lou Ann Tylwalk appealed from said decision by letter which is dated April 5, 2004, which is hereto attached and marked Exhibit "D."

13. That on June 1, 2004, Minnie Titus-Glover, Manager, Claim Operations of Prudential, issued a decision upholding their decision to deny the claim. A copy of said decision is hereto attached and marked Exhibit "E."

14. That the record submitted to Prudential established that Lou Ann Tylwalk is totally and permanently disabled within the meaning of the policy.

15. That the benefits provided her are governed by the United States Employee Retirement Income Security Program, 29 U.S.C.A. § 1101 et seq. ("ERISA").

16. That under § 1132(a)(1)(B) of ERISA, Lou Ann Tylwalk may bring a civil action directly against the insurance company and employer to recover benefits due her under the terms of the plan, to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan.

17. That the Court of Common Pleas of Clearfield County, Pennsylvania, has jurisdiction of this action under 29 U.S.C.A. § 1132(e)(1) of ERISA which provides that state courts of competent jurisdiction have concurrent jurisdiction of actions brought under paragraph (a)(1)(B).

18. That Prudential and Reliant are indebted to Tylwalk in the amount of \$20,000.00 pursuant to the plan and Group Policy G-90452.

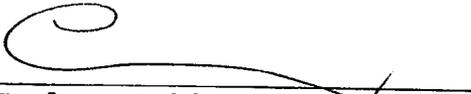
19. That pursuant to 29 U.S.C.A. § 1132(g) of ERISA, Lou Ann Tylwalk seeks attorney's fees and costs in connection with this action.

20. That the amount sought hereunder does not exceed the arbitration limits under Rule 1301 of the Clearfield County Civil Rules.

WHEREFORE, Lou Ann Tylwalk demands judgment from the Defendants, Prudential and Reliant, in the amount of

\$20,000.00, together with interest thereon from August 24, 2001, and reasonable attorney's fees and costs.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire



Christopher J Caruso
Disability Claims Manager

The Prudential Insurance Company of America
Waiver of Premium
PO Box 462
Livingston, NJ 07039

September 22, 2003

Phone: (800) 524-0542 Ext: 7111
Fax: (973) 548-7530
Hours: 7:00am - 3:05pm EST

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Ms. Tylwalk:

We have completed our evaluation of your claims for the continuation of your Group Life Insurance during Total Disability and Benefits Payable during Total and Permanent Disability under Group Policy G-90452 issued to Reliant Energy. This letter will outline our decision.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Provisions

In order to be eligible for the continuation of your group life insurance you had to become Totally Disabled while a covered individual and less than age sixty.

An Employee is "Totally Disabled" when they are not engaged in any occupation and if the employee is completely unable, due to sickness or injury or both, to engage in any occupation, which that person is reasonably fitted by education, training, or experience.

In accordance with the group policy provisions, if an employee is Totally and Permanently Disabled, they will have \$20,000.00 of their basic group life insurance paid to them in one lump sum.

"Totally and Permanently Disabled" exists only while the Employee is totally disabled as described above and that disability is such that the Employee will continue to be unable due to sickness or injury or both, to engage in any occupation, which the Employee is reasonably fitted by education, training, or experience, *for the entire remainder of the Employee's lifetime.*

Exhibit "A"

Medical Information

You stopped working due to a camping injury causing multiple facial fractures as well as subsequent surgical procedures and psychological counseling. You remained unable to work throughout the six-month elimination period due to this injury. We reviewed medical information from your physicians: Dr. Guy Catone, Dr. Joseph Vetrano, and Dr. Ronald Lingle.

In a detailed treatment summary dated August 1, 2003, Dr. Ronald Lingle indicated your continued reconstructive surgical status combined with your ongoing mood fluctuations would preclude any gainful work in the near future. Dr. Lingle indicated a time period of two to three years. Dr. Lingle further indicates that your prognosis past this point will require neuropsychological, psychological, and occupational testing to determine physical, cognitive, and emotional readiness for employment. Dr. Lingle states the he is hopeful that you can eventually return to the workforce in some capacity.

Based on the medical documentation currently in file, we are unable to conclude you will be unable to return to work in any type of occupation in any capacity for the remainder of your lifetime.

Summary

Based on our review of your claim for the continuation of your group life insurance, we have determined you are Totally Disabled as defined by this group policy. However, we are unable to conclude you are Total and Permanently Disabled as defined by this group policy and are unable to approve your claim for Benefits During Total and Permanent Disability.

We have approved your claim for the continuation of your group life insurance in the amount of \$89,000.00 effective July 10, 2003, and premium payments may be discontinued as of that date. This group life insurance amount reflects the total amount of group life insurance in effect on your last day of work, August 24, 2001. This insurance will be continued, provided you remain Totally Disabled in accordance with the provisions of this Group Policy.

Periodically we will request additional information to determine your eligibility for continued benefits. You have an obligation to submit proof of continued disability when requested by Prudential.

Based on the terms of this Group Policy, your Group Life Insurance coverage will reduce as follows:

Date	Insurance Amount Remaining
January 1, 2029	\$57,850.00
January 1, 2034	\$44,500.00

You have a right to appeal this decision. If you elect to do so, your appeal must be made in writing by you or your authorized representative. Your appeal must be submitted within 180 days of the date of your receipt of this letter. Your appeal should contain:

- the reasons that you disagree with our determination
- your name, policy number and social security number (or claim number)
- medical evidence or documentation to support your position

Evidence or documentation may include but not be limited to such materials as:

- copies of therapy treatment notes
- any additional treatment records from physicians
- actual test results (e.g. EMG, MRI)

You may submit with your appeal any written comments, documents, records and any other information relating to your claim.

The written appeal should be submitted to:

Ms. Umbalita Mingo; Team Manager
The Prudential Insurance Company Of America
Waiver of Premium Division
PO Box 482
Livingston NJ 07039

A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Appeals Review Unit expects to render a decision shall be furnished to you within the initial 45-day period. However, if Prudential requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

If your appeal is denied, you may seek a second appeal. The same conditions and time frames for the first appeal will apply to the second appeal.

If our decision to deny benefits is upheld at the second level of appeal, you may file a voluntary third appeal. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal. The same time frame for the first appeal will apply to the third appeal.

After completion of the first two levels of appeal, you may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the 'above' address or call (800) 524-0542, extension 7111. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,

Christopher J Caruso
Disability Claims Manager

Prudential  **Financial**

Christopher J Caruso
Disability Claims Manager

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

September 29, 2003

Phone: (800) 524-0542 Ext: 7111
Fax: (973) 548-7530
Hours: 7:00am - 3:05pm EST

Ken Urgolites
Reliant Energy
1001 Broad St.
Johnstown, PA 15907

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Mr. Urgolites:

We have completed our review of Lou Ann Tylwalk's claim for the continuation of her Group Life Insurance during Total Disability and Benefits Payable during Total and Permanent Disability through G-90452 issued to Reliant Energy.

We have approved her claim for the continuation of her group life insurance in the amount of \$89,000.00, effective July 10, 2003. However, we have determined that she is not eligible for Benefits during Total and Permanent Disability and have denied her claim for this benefit. A detailed letter of explanation has been sent to Lou Ann Tylwalk, along with instructions on our appeal process, should she disagree with our decision.

Please advise Lou Ann Tylwalk of the status of her Group Life Insurance.

Please do not hesitate to contact us if you have any questions regarding this matter, you may write to us at the above address or call (800) 524-0542, extension 7111.

Sincerely,

Christopher J Caruso
Disability Claims Manager

November 26, 2003

Christopher J. Caruso
Disability Claims Manager
The Prudential Insurance Company
Of America
Waiver of Premium
P.O. Box 482
Livingston, NJ 07039

In re: Your letter dated September 22, 2003 denying my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy

Dear Mr. Caruso:

I do hereby appeal from your decision regarding my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy.

I disagree with your determination for the following reasons: The reports in this case indicate I have suffered a traumatic head and face injury, a traumatic brain injury resulting in a cognitive disorder, mood disorder, and depression, as a result of which I am totally and permanently disabled. In addition to my injuries I am currently taking the following medications:

80 mg oxycontin 2 x day - pain killer
15 mg buspar 2 x day - antidepressant
150 mg wellbutrin 2 x day - antidepressant
100 mg peri-colace 2 x day - to prevent constipation
150 mg trazodone 1 x day antidepressant and sleep aid.

Exhibit "B"

As a result of my injuries and current medications I am unable to work. The Commonwealth of Pennsylvania has reviewed my injuries and has paid the statutory limits for my injuries. None of my doctors or psychologists have indicated I will be able to return to work at any time in the future.

The suggestion in your decision that I can return to work has been taken out of context of the report of my psychologist, Ronald Lingle. The entire statement is as follows:

"Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life." (emphasis added)

The entire statement recognizes my injuries are permanent and that my disability remains total based on those injuries.

My name, policy number and claim number is as follows:

Name and Address: Lou Ann Tylwalk
119 South High Street
Clearfield, PA 16830

Policy Number: G-90452

Claim Number: 10469216.

The medical evidence I am submitting is as follows:

1. Report and Opinion of Dr. Guy Catone;
2. Report and Opinion of Dr. Ronald Lingle;
3. Social Security Disability Record.

NOVEMBER 26, 2003

3

Should you require any further information, please direct your request to my authorized representative:

Carl A. Belin, Jr., Esquire
Belin & Kubista
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6446

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0002 6639 6446

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark: CLEARFIELD PA 16830
 NOV 26 2003
 USPS

Sent To: Christopher J. Caruso, Disability Claims Manager
 Prudential Insurance Co., Waiver of Premiums
 P.O. Box 482
 Livingston, NJ 07039

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Received by (Please Print Clearly) _____ B. Date of Delivery _____</p> <p>C. Signature: <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Address</p> <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: _____</p>
<p>1. Article Addressed to: Christopher J. Caruso Disability Claims Manager Prudential Insurance Co. Waiver of Premium P.O. Box 482 Livingston, NJ 07039</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Copy from _____) 7001 2510 0002 6639 6446</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

MAY - 8 2003

Dr. Guy A. Catone DDS, DMD

May 5, 2003
RE: Lou Ann Tylwalk

Diplomat, American Board of Oral and Maxillofacial Surgery
Fellow, American Academy of Cosmetic Surgery
Fellow, American Association of Oral and Maxillofacial Surgeons

Carl A. Belin Jr.
Belin & Kubista
Attorneys at Law
15 North Front Street
PO Box 1
Clearfield, PA 16830

Dear Mr. Belin:
Subject: Medical report

This is in response to your letter of April 28, 2003 concerning the injuries sustained by Lou Ann Tylwalk and the surgery used to address these injuries. Lou Ann Tylwalk at the time of the injury was a 42-year-old woman who was camping in a forest when a tree branch fell and struck her in the face and skull. She suffered a closed head injury, multiple facial skeletal fractures, a fractured right frontal bone and supraorbital rim, nasal bone fractures, naso-orbital ethmoidal fractures, bilateral zygomaticomaxillary complex fractures, blow out fracture of the right orbital floor, Le Fort I maxillary fracture, fracture of the right coronoid process of the mandible, and facial and scalp lacerations and abrasions. She was taken via Life Flight at Allegheny General Hospital and admitted to the Shock Trauma Unit. After initial resuscitation, her facial/skull injuries were surgically addressed.

The patient was taken to the operating room on August 31, 2001 and at that time a bicoronal flap of the skull was developed and the right-sided Le Fort fracture was repaired; the right zygomatic bone body and arch fracture repaired along with repair and reduction of the right supraorbital fracture of the frontal bone. A Killian ("open sky") midline approach was made to repair multiple nasal bone fractures with reconstruction of the nasal bridge with Leibinger mesh. The patient was brought back to the operating room on September 10, 2001 and the blow out fracture of the left orbital floor and blow in fracture of the right orbital floor were repaired. The patient tolerated the anesthesia and surgery well and was discharged to home to be followed up regularly.

As a result of postoperative follow up visits it was noted that the patient had difficulty opening her mouth. This was due to an extra-articular ankylosis of the right jaw joint secondary to a fracture of the coronoid process on this side. She was subsequently readmitted on November 02, 2001 and a right coronoidectomy was performed. She progressed well after surgery and was able to open her mouth to near normal levels and be able to masticate food and articulate words quite well.

Monroeville • Oakland • North Side • Baden

West Penn Allegheny Health System Forbes Regional • Professional Office Bldg. 1 • Suite 104 •
2566 Haymaker Road

Monroeville, Pennsylvania 15146-3594

Telephone: (412) 374-9030 Fax: (412) 373-9437

She did well after the surgery in November of 2001. There was some residual enophthalmos of the right orbit and a decreased width of the left palpebral fissure. She also experienced significant post-traumatic resorption of the upper jaw. She was regularly observed in the Maxillofacial Unit at Allegheny General Hospital until February 2002. On February 4, 2002 she was admitted once again to Allegheny General Hospital. At that time the lack of bone in the upper jaw was managed by grafting corticocancellous bone from the posterior iliac crest (right) to the maxillary sinuses bilaterally. It was not possible to place dental implants into the upper jaw because of the lack of bone to stabilize the dental implants needed during the process of osseous integration of these fixtures.

The patient was once again followed in the outpatient offices at Allegheny General Hospital. During this time period remodeling of the bone in the right malar region caused an asymmetry of the face so that the right face appeared to be flattened. The right and left eyebrows appeared to be ptotic (drooping), there were adhesions at the right frontozygomatic and infraorbital regions, and the enophthalmos of the right eye persisted. This was treated on June 14, 2002 by admitting her to the Short Procedure Unit at Allegheny General Hospital. At that time she had a right-sided cheek implant placed, a surgical browlift to elevate the eyebrows, lysis of adhesions around the right frontozygomatic suture and right inferior orbital rim with removal of the bone plates and screws. A Silastic implant was placed into the right orbital floor to attempt to elevate the right globe. Another admission on September 23, 2002 was to place endosseous implants into the maxilla. On exploration of the maxilla it was found that there still was not enough bone to place dental implants so that the surgical site was closed and the patient was prepared for another bone graft to the upper jaw.

Mrs. Tylwalk was readmitted on September 27, 2002 and the following procedures were done to attempt to rebuild the upper jaw: left posterior iliac crest corticocancellous bone procurement, drawing of a unit of blood for platelet rich plasma, right unicoronal flap with harvest of calvarial graft, corticocancellous graft to the upper jaw and skull graft to lateral and anterior aspects of the upper jaw. She accepted these bone grafts and on April 25, 2003 multiple dental implants (6) were placed into the maxilla. Further a left lateral canthopexy was performed.

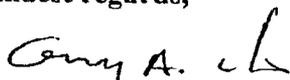
She has progressed well after her last surgery involving the dental implants. The left lower eyelid now appears to be functionally and aesthetically better. The implants placed on April 25, 2003 appear to be well-positioned and the prognosis of these dental implants are good based upon the volume of bone in the upper jaw into which they were placed. She continues to have enophthalmos of the right orbit and eyeball. This may be addressed in the near future. After a period of 6-8 months the dental implants can be exposed and prosthodontics begun to replace her upper and lower dentures.

The prognosis for her facial injuries is good and she will be left with some residual disabilities related to moderate double vision in the right eye. She will continue to

require psychological counseling and treatment, which will be under the purview of her primary care physician and therapist. The double vision and psychological problems will be permanent albeit somewhat improved over time.

If you require further information regarding Lou Ann Tylwalk please don't hesitate to call my office at your convenience.

Kindest regards,



Dr. Guy A. Catone
Associate Professor Department of Medicine
Drexel College of Medicine
Division of Oral and Maxillofacial Surgery
West Penn Allegheny Health System

Ronald M. Lingle, Psychologist

May 16, 2003

Carl Belin, Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk DOB: 10/25/1958 Request for report treatment history

Dear Mr. Belin,

Here is a summary of my evaluation, treatment, and prognosis of Lou Ann Tylwalk, per your request of 5/12/03. Please contact me if clarification or further information is required.

History of current illness:

Reports obtained by this psychologist from DuBois Regional Medical Center (DRMC) and Allegheny General Hospital (AGH) show that Lou Ann was initially stabilized on 8/24/01, at DRMC's ER after a large tree limb fell at night from a tree, onto her tent, while she was camping at a local park. According to ER records at AGH, where she was transported by helicopter, Lou Ann was a "life or death" admission to their facility with "Skull Fractures and Coma, NOS" (Earl Floyd Scott, MD, 9/17/01), among many other injuries. Dr. Ahmed Halal indicated on his discharge summary of 9/14/01 that Lou Ann had a "positive loss of consciousness and amnesia." She required mechanical ventilation for more than 4 days to survive and was treated in the hospital's Neuro ICU due to her brain injuries and status. Because of agitation and disorientation, Lou Ann was placed on Ativan and Haldol during her stay in the NICU. She eventually was stepped down to a regular unit, where she stayed for the remainder of her acute hospitalization. She was transferred three weeks after the injury to DRMC's Rehabilitation Unit for a one week stay, mostly due to safety issues resulting from her brain injury. Dania Fischerri from AGH's Neuropsychology department wrote on her consult of 9/12/01, "Supervision is recommended, particularly when safety is an issue."

At DRMC, Lou Ann was admitted by Physiattist, Laun Hallstrom, M.D. on 9/14/01 and diagnosed with "status post facial trauma with history of subarachnoid hemorrhage and subdural hemorrhage." He ordered a plan of rehabilitation that included "supervision outside of the room associated with impulsivity" as well as a neuropsychological evaluation. This evaluation was conducted by Dr. Gregory Martino on 9/18/01 with the following findings: "General intellectual status was . . . in the low average range which was . . . significantly below expectation given her reported experiential background; Notable deficits were indicated in higher-level reasoning, information processing, and working memory abilities." Dr. Martino further stated that ". . . she is not a good candidate for employment . . ." and recommended "follow-up neuropsychological evaluation in 6-9 months." He also recommended that she refrain from performing potentially dangerous tasks that require adequate working memory, spatial reasoning, speeded response, and higher-level reasoning skills . . ." Lou Ann was discharged home on 9/19/01 with constant supervision for ambulation due to "traumatic brain injury with impulsivity and cognitive deficits" (L. Hallstrom, M.D., Discharge Summary 9/19/03). She returned to her home with supervision of family and Home Health Speech

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Ronald M. Lingle, Psychologist

Therapy for cognitive deficits and an assortment of follow-up medical appointments, medications, and other instructions.

Evaluation:

As is often the case status post traumatic head injury, Lou Ann developed a rather severe depression about six months after the accident which caused her to be sad, feel more discouraged, lack motivation, avoid social contact with others, and lose all interest in previously enjoyed activities. I was referred her case in March 2002 by a Speech Therapist who was providing cognitive rehabilitation to her, at the time, on an outpatient basis. I first saw Lou Ann on 3/25/02 with diagnoses of Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She demonstrated decreased speed of cognition, flat affect with downward, left-facing gaze, and significantly depressed and anxious mood. She also, still had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). As my specialty is in working with adjustment to serious injury/illness, I assessed and worked with her depression and family issues related to her life-changing injury. We decided on a plan of regular outpatient psychotherapy that included psychoeducation of traumatic brain injury and sequelae, cognitive-behavioral therapy of depression and anxiety, marital therapy for education and grief/loss processing, and consultation with her PCP related to the pharmacotherapy of her depression, anxiety, and cognitive symptoms.

Treatment:

Sessions have continued to this date, averaging weekly to biweekly depending upon her status. As of this date, I have seen her (or her family) a total of 35 sessions. Although she has made relatively good progress in adjusting to her losses, she suffers a setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Lou Ann has been hospitalized for continuing facial surgery in June of 2002 and then again in September 2002. After each surgery, Lou Ann has experienced a return of severe depression combined with a decline in cognitive abilities that resulted in major changes in her psychopharmacology and psychotherapy each time. After the June surgeries it took two months of weekly psychotherapy and changes/increases in her antidepressants and hypnotics for her to return to her pre-June level of mood and cognition. Her most recent hospitalization in September of 2002 was especially difficult with Lou Ann requiring extensive changes in her antidepressant medication and weekly psychotherapy to continue functioning semi-independently. It took until January of 2003 for her to return to the level of mood and cognition that she achieved just two months after the June surgery. She also received surgery in August of 2002 and April of 2003 but was not admitted into the hospital nor received any general anesthetics.

As one of goals of our treatment plan was to consult with her PCP regarding pharmacotherapy of depression, anxiety, and cognition, regular contacts with Dr. Joseph Vetrano were completed. At least three different medication strategies were tried until the current regimen of Wellbutrin, Buspar, and Trazadone for her emotional and cognitive difficulties was achieved. Please contact Dr. Vetrano for exact medication dosages and times as he is the prescriber of record. She has had two major changes in her antidepressant medications since June of 2002. Due to her severe mood decrease after the June surgery, Dr. Vetrano placed her on Remeron in July with very poor results. She did not improve in mood or sleep and gained over 10 pounds. He stopped this medication and restarted the Luvox, Trazadone and Ambien. She recovered fairly well and went into the surgery in

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Ronald M. Lingle, Psychologist

September with only a mild level of depressive symptoms and good sleep on the Trazadone. Unfortunately, Lou Ann became very depressed after the extensive surgery in September and more medication changes were tried. She was started on Wellbutrin due to her depression, cognition, and tobacco addiction. Her surgeon in Pittsburgh was concerned about low calcium levels and inadequate bone healing in the presence of regular cigarette smoking. It took an extended time for the Wellbutrin to show its expected antidepressant effect on Lou Ann. Lou Ann has shown slow but continued improvement in her recovery from the most recent exacerbation of depression. We have met weekly (on average) from September through December (2002) with improvements in her depression but continued reports of anxiety and agitation. I met with her PCP, Dr. J. Vetrano on 12/31/02 and requested his assistance with this continuing issue. He prescribed Buspar 5 mgs. bid, (in addition to her Wellbutrin and Trazadone) and Lou Ann began this additional treatment later that day. The addition of the Buspar seems to have given Lou Ann the antidepressant and anxiolytic effect she needed while giving her the additional benefits of improved smoking control and better perceived cognition. Psychotherapy continued 3-4 times per month until her latest surgery in April. After a period of physical recovery, we are re-starting therapy with our next session scheduled May 19, 2003. Phone consultations have been provided on an as needed basis to Lou Ann and her husband on an as needed basis since we began treatment in March of 2002.

Current Functioning Status:

This examiner's current diagnosis of Lou Ann continues to be Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She still has difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). We continue to work with her depression and family issues related to her life-changing injury. It is quite clear that she continues to have cognitive slowing and problems with multitasking, although she is now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting, and crafts. Lou Ann is not capable of handling any complex life planning, money handling, or legal decision-making. Fortunately, Lou Ann does have insight into her losses and current condition and defers these decisions to her husband.

Although she has made some progress in adjusting to her losses, she suffers a cognitive and emotional setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Recent surgeries were in June, August, and September (of 2002) and in April of 2003, with more pending in the future. Emotionally, she has shown recovery from her surgeries to her pre-surgery baseline level.

Prognosis:

This psychologist has met with Lou Ann a total of 35 times over the last 14 months for treatment of symptoms of depression, anxiety, family stress, and decreased cognition that were not a part of her life before the traumatic head injury of August 2001. Although this examiner is not a Neuropsychologist, it is obvious that Lou Ann Tylwalk cannot return to her job as a control-room operator now or in the future. As it has been over a year and a half since the accident and brain injury, with very little further cognitive recovery expected from this point, it would be dangerous to subject Lou Ann and/or others at the plant to the possibility of mistakes in judgment resulting from this injury. Her continued reconstructive surgical status combined with her ongoing mood

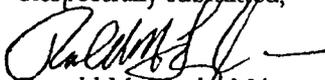
P . O . B o x 1 2 • H y d e , P A • 1 6 8 4 3 - 0 0 1 2
P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

Ronald M. Lingle, Psychologist

fluctuations would also preclude any other gainful work in the near future (2-3 years). Further prognosis past this point will require neuropsychological, psychological, and occupational testing to determine physical, cognitive, and emotional readiness for employment.

Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life.

Respectfully submitted,


Ronald M. Lingle, MA
Psychologist

P. O. Box 12 • Hyde, PA • 16843-0012
Phone: 814-765-6941 • Fax: 814-372-2020

Your Benefits

The following chart shows your benefit amount(s) before any deductions or rounding. The amount you actually receive(s) may differ from your full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

Beginning Date	Benefit Amount	Reason
February 2002	\$1,696.90	Entitlement began
December 2002	\$1,720.60	Cost-of-living adjustment

Information About Lawyer's Fees

We have approved the fee agreement between you and your lawyer.

Your past-due benefits are \$22,120.00 for February 2002 through February 2003. Under the fee agreement, the lawyer cannot charge you more than \$5,300.00 for his or her work. The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports). This is a matter between you and the lawyer.

How To Ask Us To Review The Determination On The Fee Amount

You, the lawyer or the person who decided your case can ask us to review the amount of the fee we say the lawyer can charge.

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter. Tell us that you disagree with the amount of the fee and give your reasons. Send your request to this address:

Social Security Administration
Office of Hearings and Appeals
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The lawyer also has 15 days to write us if he or she thinks the amount of the fee is too low.

If we do not hear from you or the lawyer, we will assume you both agree with the amount of the fee shown.

Information About Past-Due Benefits Withheld To Pay A Lawyer

Because of the law, we usually withhold 25 percent of the total past-due benefits to pay an approved lawyer's fee. We withheld \$5,530.00 from your past-due benefits to pay the lawyer.

Do You Disagree With The Decision?

You have already been notified of your appeal rights regarding the decision made by the Administrative Law Judge and what you must do to have that decision reexamined. If you believe that any other determination made by us in carrying out the Administrative Law Judge decision is incorrect, you may also request that part of your case be reexamined.

If you want this reconsideration, you may request it through any Social Security office. If additional evidence is available, you should submit it with your request. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim". It contains more information about the appeal.

Things To Remember For The Future

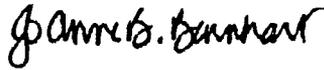
Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

If You Have Any Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-814-371-8099. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
480 JEFFERS STREET
DUBOIS, PA 15801

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.



Jo Anne B. Barnhart
Commissioner
of Social Security



PAYMENT SUMMARY

Your Payment Of \$18,310.00

Here is how we figured your first payment:

Benefits due for February 2002 through March 2003 including any cost of living increase, less monthly rounding of benefits\$23,840.00

Amount we subtracted because of

- money to pay your lawyer 5,530.00

This equals the amount of your first payment\$18,310.00

Your Regular Monthly Payment

Here is how we figured your regular monthly payment effective April 2003:

You are entitled to a monthly benefit of\$ 1,720.60

Amount we subtracted because of

- rounding (we must round down to a whole dollar)60

This equals the amount of your regular monthly payment\$ 1,720.00

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

DECISION

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk
(Claimant)

Period of Disability and
Disability Insurance Benefits

(Wage Earner)

160-48-3192
(Social Security Number)

PROCEDURAL HISTORY & JURISDICTION

The claimant protectively filed the instant application for disability insurance benefits on May 15, 2002 (Exhibits 1D-2D), alleging disability due to problems with reasoning, short-term memory, and multiple tasking due to head injuries, and post traumatic stress syndrome (Exhibit 2E). Following denial of her claim initially, the claimant timely filed a request for hearing which is presently before the undersigned.

ISSUES

The general issue is whether the claimant is entitled to a Period of Disability and to Disability Insurance Benefits under Sections 216(i) and 223 of the Social Security Act. The specific issue is whether she is under a disability, defined as the inability to engage in any substantial gainful activity by reason of an impairment expected either to result in death or last for a continuous period of at least 12 months.

An additional issue pertains to insured status. Information contained in the claimant's earnings record (Exhibit 3D) reveals she acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

CONCLUSION

After giving careful consideration to all of the evidence, the undersigned has concluded that a favorable decision is warranted without the need for testimony. Thus, no hearing was held.

The documentary records support a finding that beginning August 24, 2001, the claimant has had an impairment which meets Section 12.02 of the Listing of Impairments contained in Appendix I, Subpart P, Regulations No. 4, and therefore, she is disabled within the meaning of the Social Security Act and Regulations.

EVALUATION OF THE EVIDENCE

Under the authority of the Social Security Act, the Social Security Administration has established a sequential evaluation process followed in determining disability (20 CFR 404.1520). The first step in this process concerns the question of when the claimant last engaged in substantial gainful activity.

A forty-four year old individual with a high school education (Exhibit 2E), the claimant has past relevant work experience as a power plant control operator (Exhibits 3D; 2E-3E).

The evidence shows the claimant has not worked since alleging disability on August 24, 2001, and consequently, has not been engaging in substantial gainful activity, as defined in 20 CFR 404.1510.

The evidence supports a finding that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are medically determinable, impose limitations with more than a minimal effect on her physical ability to do basic work, and have lasted 12 continuous months or more. Thus, these impairments are "severe" as defined by 20 CFR 404.1520 and Social Security Ruling 85-28.

After reviewing the entire matter, including all pertinent exhibits, the undersigned finds the claimant's impairments meet Section 12.02 of the Listing of Impairments contained in Appendix I, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Regarding the claimant's mental condition, the evidence in this case shows status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression.

Ronald Lingle, M.A., the claimant's treating psychologist, correctly summarized the claimant's treatment as involving hospitalization during August 24 through September 15, 2001 for a traumatic brain injury and multiple skull and facial fractures, and rehabilitation during September 15-19, 1991 (Exhibit 2F).

Mr. Lingle on July 23, 2002 reported the claimant had a poor to nonexistent prognosis of returning to her premorbid employment, given she lacked ability to concentrate and multitask necessary for the job of control room operator at a power plant (Exhibit 22F). He reported she required more facial and oral surgeries, and that it seemed the anesthesia and stress of surgery set her back emotionally and cognitively after each surgery (Exhibit 22F).

Mr. Lingle reported the claimant had fair to poor abilities to make occupational adjustments, good to poor abilities to make performance adjustments, and good to fair abilities to make personal-social adjustments (Exhibit 22F). In particular, she reported the claimant had poor abilities to interact with supervisors, deal with work stresses, function independently, and understand, remember, and carry out complex tasks or job instructions (Exhibit 22F).

Mr. Lingle reported the claimant during weekly psychotherapy for adjustment to traumatic brain injury and her disfiguring life-threatening injury became increasingly anxious and agitated with complex details and information during the sessions (Exhibit 22F). He reported observing decrease in self-care and increase in withdrawal from socialization (Exhibit 22F). He reported the claimant was self-conscious of her facial disfigurement and loss of teeth, and demonstrated increasing anxiety and agitation around others (Exhibit 22F). He reported the claimant had an increase in symptoms of depression and anxiety with her depression being in the severe range of 28 on the Beck Depression Inventory on July 8, 2002 (Exhibit 22F). He reported the claimant could not handle complex information under stress (Exhibit 22F).

Mr. Lingle reported she demonstrated difficulties performing activities of daily living on a daily basis, needed prompting from her husband for personal care, health, and hygiene, and needed help from her husband to shop, maintain her residence, and take care of her health care needs (Exhibit 22F).

Mr. Lingle reported the claimant demonstrated difficulties getting along with others (Exhibit 22F). He reported she had difficulty maintaining a daily household routine and completing all tasks necessary to remember appointments independently (Exhibit 22F). He reported when she was depressed she did not cook, clean, or do most of her activities of daily living without prompting (Exhibit 22F).

Regarding her memory, Mr. Lingle reported the claimant remembered little information between the day of the accident and a number of months thereafter, since her memories did not begin until the claimant's rehabilitation (Exhibit 22F). He reported the claimant could not multitask large amounts of information and overloaded easily (Exhibit 22F). He reported she had trouble with details and complex information (Exhibit 22F). He reported her immediate retention and recall was poor for complex or large amounts of information (Exhibit 22F).

Regarding her impulse control, Mr. Lingle reported the claimant remained quick to anger, irritability, and frustration, and said things she later regretted (Exhibit 22F). He reported the claimant had panic attacks when in crowded rooms (Exhibit 22F).

Mr. Lingle reported the claimant appeared sad and depressed (Exhibit 22F). He reported she had a decreased activity level and stayed in her home more than she did before the accident (Exhibit 22F). He reported she was extremely self-conscious due to her injuries and inability to process information quickly (Exhibit 22F). He reported she had increased irritability and decreased frustration tolerance (Exhibit 22F).

On December 29, 2002 the claimant provided an update to his July 23, 2002 report (Exhibit 30F). He reported the claimant was hospitalized for continuing facial surgery in June, 2002 and September, 2002, after which she experienced a return of severe depression and a decline in her cognitive abilities (Exhibit 30F). He reported she continued to have poor concentration and memory, and had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (Exhibit 30F). He reported she continued to have cognitive slowing and problems with multitasking (Exhibit 30F). He reported she needed more surgery in the future, but that she continued to suffer setbacks after surgery (Exhibit 30F). He reported very little further cognitive recovery was expected (Exhibit 30F). He concluded if she returned to work she might cause injury to herself or others (Exhibit 30F).

Indeed, controlling weight is afforded Mr. Lingle's assessment, as it is rendered by a treating mental health expert, consistent with the objective and clinical findings of record, and is not otherwise inconsistent with other substantial evidence contained in the case record (Social Security Ruling 96-2p).

Additional medical evidence supporting the findings in Exhibits 22F and 30F is present in Exhibits 3F; 11F-12F; 17F; 29F. Full analysis of these Exhibits is unnecessary given the Undersigned accepts, and finds full support for meeting Listing 12.02 in, Exhibits 22F and 30F.

Based on the above, the undersigned concludes as to activities of daily living, there are marked limitations. As to social functioning, there are marked limitations. As to concentration, persistence, and pace, there are marked limitations. Finally, as to the fourth "B" criteria, there is no evidence the claimant has experienced one or more episodes of decompensation, each of extended duration.

A claimant's mental condition meets the requirements of Listing 12.02, when the claimant has psychological or behavioral abnormalities associated with brain dysfunction, with a history and physical examination or laboratory tests demonstrating the presence of a specific organic factor judged to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The claimant's condition must meet the "C" criteria, or the "A" criteria and two of the "B" criteria regarding activities of daily living, social functioning, maintaining concentration, persistence, or pace, and repeated episodes of decompensation, each of extended duration.

To meet the "A" criteria of Listing 12.02, the claimant needs demonstration of a loss of specific cognitive abilities or affective changes and the medically documented persistence of one of seven conditions. First, disorientation to time and place. Second, a memory impairment, either short-term (inability to learn new information), intermediate, or long-term (inability to remember information that was known sometime in the past). Third, perceptual or thinking disturbances (e.g., hallucinations, delusions). Fourth, change in personality. Fifth, disturbance in mood. Sixth, emotional lability (e.g., explosive temper outbursts, sudden crying, etc.) and impairment in impulse control. Seventh, loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan.

As analyzed above, the claimant's condition meets the requirements of the "A" criteria of Listing 12.02.

As analyzed above, the undersigned concludes the claimant has significant limitations in three of the four "B" criteria, namely, activities of daily living, social functioning, and concentration, persistence, or pace.

In view of the foregoing, it is clear the claimant's mental impairments are severe and meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Because the claimant's mental condition meets the "A" and "B" criteria of Listing 12.02, the "C" criteria need not be analyzed.

In view of the clinical and objective findings, it is clear the claimant's impairments are severe and meet Section 12.02 of Appendix 1, Subpart P, Regulations No. 4. Hence, the claimant is disabled pursuant to Regulations 404.1520(d).

As the claimant is under a disability, the claimant is entitled to receive Disability Insurance Benefits based on her application protectively filed on May 15, 2002.

Regarding the above assessment, a state agency mental health consultant who evaluated the evidence assessed the claimant's condition did not meet the requirements of Listing 12.02 (Exhibits 23F-24F). Although this opinion is entitled to less weight since it was given by a non-examining mental health expert, it is considered a medical opinion and entitled to some weight (Social Security Rulings 96-2p, 96-6p, 96-7p and 96-8p). The state agency mental health consultant was not afforded an opportunity to review the medical evidence received subsequent to her determination. These subsequent reports confirmed the claimant's condition meets the requirements of Listing 12.02.

In view of the severity of the claimant's condition, it appears she would be unable to manage benefits in her own interest. The claimant's treating psychologist reported the claimant could not manage benefits in her own interest (Exhibit 22F). Accordingly, it is recommended she receive benefit payments through a representative payee, specifically her husband.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

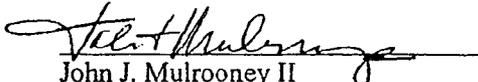
1. The claimant met the disability insured status requirements of the Act on August 24, 2001, the date she stated she became unable to work, and has acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

2. The claimant has not engaged in substantial gainful activity since August 24, 2001 (20 CFR 404.1520(b)).
3. The medical evidence establishes that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are severe within the meaning of the Regulations.
4. The severity of the claimant's mental impairments meets the requirements of Section 12.02, Appendix 1, Subpart P, Regulations No. 4, and has precluded her from working for at least twelve continuous months (20 CFR 404.1525).
5. The claimant has been under a disability since August 24, 2001.
6. The claimant is to receive benefit payments through a representative payee.
7. The claimant has been under a disability as defined by the Social Security Act and Regulations since August 24, 2001 (20 CFR 404.1520).

DECISION

It is the decision of the Administrative Law Judge that, based on the application for disability insurance benefits protectively filed on May 15, 2002, the claimant is entitled to a period of disability commencing August 24, 2001, and to disability insurance benefits under Sections 216(i) and 223, respectively, of the Social Security Act, as amended.

Because there is evidence that the claimant may have difficulty in managing her benefits, the undersigned recommends that the component responsible for effectuating this decision determine whether the appointment of a representative payee is warranted.


John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court Order in Holman et al. v. Bowen, (Civ. No. 78-0494, M.D. Pa., May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security Office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800-732-3545.



SOCIAL SECURITY ADMINISTRATION

Refer To: 160-48-3192

Office of Hearings and Appeals
334 Washington Street, Suite 200
Johnstown, Pennsylvania 15901
Telephone: (814) 533-4462

Date: FEB 28 2003

Lou A. Tylwalk
119 S. High Street
Clearfield, PA 16830

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

If You Disagree With The Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal, you or your representative, if you choose to appoint one, must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Hearings and Appeals, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with my decision and you file a new application instead of appealing, you might lose some benefits, or not qualify for any benefits. My decision could also be used to deny a new application for insurance benefits, if the facts and issues are the same. So, if you disagree with this decision, you should file an appeal within 60 days.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (724)371-8099. Its address is 480 Jeffers Street, Dubois PA 15801.

cc: Gerald W. Foulds, Esquire
955 Liberty Ave Ste 402
Pittsburgh, PA 15222

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. No.	Part No.	Description	No. of Pages
<u>MEDICAL RECORDS</u>			
1	F	Emergency Room Records dated 8/2/01 from Clearfield Hospital	4
2	F	Emergency Room Records dated 8/24/01 from DuBois Regional Medical Center	27
3	F	Neuropsychological Screening Evaluation dated 9/18/01 from Gregory M. Martino, Ph.D.	3
4	F	Hospital Records for admission on 8/24/01 through discharge on 9/14/01 from Allegheny General Hospital	42
5	F	Hospital Records for admission on 9/14/01 through discharge on 9/19/01 from DuBois Regional Medical Center	40
6	F	MRI - Orbits and Facial dated 9/27/01 from Rudy J. Nicolas, MD	2
7	F	Hospital Records for admission on 10/1/01 through discharge on 10/4/01 from Clearfield Hospital	12
8	F	Medical Report dated 10/15/01 from David Oliver-Smith, MD	2
9	F	Record of Operation dated 11/2/01 from Allegheny General Hospital	3
10	F	Outpatient records dated 11/9/01 through 11/12/01 from Clearfield Hospital	10
11	F	Clearfield Hospital Home Health Services records dated 10/5/01 through 11/14/01	7
12	F	Outpatient speech/language therapy records dated 9/19/01 through 12/6/01 from DuBois Regional Medical Center	7
13	F	Evaluation record dated 1/25/02 from Allegheny General Neuro-Ophthalmology Dept.	4
14	F	Hospital Records for admission on 2/1/02 through discharge on 2/2/02 from Allegheny General Hospital	6
15	F	Hospital Records for admission on 3/1/02 through discharge on 3/3/02 from Clearfield Hospital	12
16	F	Letter dated 3/4/02 from Richard E. Johnson, DO	1

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. Part No. No.	Description	No. of Pages
17 F	Clearfield Hospital Home Health Services records dated 3/8/02 through 3/27/02	7
18 F	Medical Records covering the period from 9/28/01 to 5/7/02 from Joseph A. Vetrano, MD	21
19 F	Hospital Records for admission on 6/14/02 through discharge on 6/15/02 from Allegheny General Hospital	11
20 F	Report of Contact with Dr. Johnson dated 7/3/02	1
21 F	Medical Records covering the period from 9/25/01 to 7/16/02 from Guy A. Catone, DDS	22
22 F	Psychological Evaluation dated 7/23/02 by Ronald M. Lingle, M.A.	7
23 F	RFC - Residual Functional Capacity Assessment - Mental (completed by DDS physician) dated 7/26/02	4
24 F	Psychiatric Review Technique Form (completed by DDS physician) dated 7/26/02	15
25 F	RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 7/31/02	8
26 F	Hospital Records dated 08/23/02 from Allegheny General Hospital	10
27 F	Hospital Records for admission on 09/27/02 through discharge on 09/30/02 from Allegheny General Hospital	17
28 F	Medical Records covering the period from 10/15/01 to 10/22/02 from Guy A. Catone, D.D.S. (duplicates removed)	16
29 F	Medical Records covering the period from 07/08/02 to 11/08/02 from Joseph Vetrano, M.D. (duplicates removed)	8
30 F	Medical Report dated 12/29/02 from Ronald M. Lingle, MA	4

LIST OF EXHIBITS

CLAIMANT: LOU A. TYLWALK SSN: 160-48-3192

W/E: _____ SSN: _____
(if applicable)

PAYMENT DOCUMENTS/DECISIONS

Section A contains paperwork that shows decisions made by the Social Security Administration and payment documents. Each set of documents is labeled with the section number and numerically as exhibit.

Section A consists of 1 exhibits.

JURISDICTIONAL DOCUMENTS/NOTICES

Section B contains jurisdictional documents (essential paperwork for processing applications and claims). Section B contains notices sent out in the case. Each set of documents is labeled with the section number and numerically as an exhibit.

Section B consists of 6 exhibits.

Section C ordinarily will be empty.

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 3 exhibit.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 8 exhibits.

Part A (Yellow) - Payment Documents/Decisions
Part B (Red) - Jurisdictional Documents/Notices
Part D (Orange) - Non-Disability Development
Part F (Blue) - Disability Related Development and Documentation

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income
Part (DWB) - Disabled Widow/Widower

December 22, 2003

Phone: (800) 524-0542 Ext: 7123
Fax: (973) 548-7530
Hours: 8.30am to 4.35pm

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Ms. Tylwalk:

We have completed our review of your first request for reconsideration of our decision to deny your claim for Total and Permanent Disability Benefits under Group Policy G-90452 issued to Sithe Energies, Inc. We have determined that our decision was appropriate and have upheld our decision to deny your claim. This letter outlines the reasons for this determination.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Requirements

In order to be eligible for the continuation of your group life insurance you had to become Totally Disabled while a covered individual and less than age sixty.

An Employee is "Totally Disabled" when they are not engaged in any occupation and if the employee is completely unable, due to sickness or injury or both, to engage in any occupation, which that person is reasonably fitted by education, training, or experience.

In accordance with the group policy provisions, if an employee is Totally and Permanently Disabled, they will have \$20,000.00 of their basic group life insurance paid to them in one lump sum.

"Totally and Permanently Disabled" exists only while the Employee is totally disabled as described above and that disability is such that the Employee will continue to be unable due to sickness or injury or both, to engage in any occupation, which the

Exhibit "C"

Employee is reasonably fitted by education, training, or experience, *for the remainder of the Employee's lifetime.*

Your claim for Total and Permanent Disability was denied because we determined that documentation did not support a mental or physical impairment that would prevent you from performing the duties of any occupation for the remainder of your lifetime. A complete explanation of our decision can be found in our letter dated September 22, 2003.

Medical Information

Information provided with your Appeal included a letter dated November 26, 2003 with an extract from your psychologist, Dr. Ronald Lingle in which you underlined the last statement, "however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life".

To substantiate the above underlined statement you added a 'Request for report of treatment history', dated May 16, 2003 by Dr. Lingle. In this report, Dr. Lingle's assessment of your current functioning status indicates that his office continues to work with your depression and family issues related to your life-changing injury. It is quite clear that you continue to have cognitive slowing and problems with multitasking, although you are now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting and crafts. You are not capable of handling any **complex** life planning, money handling or legal decision-making. Fortunately, you do have insight into your losses and current condition and defer these decisions to your husband.

Dr. Linge opines that, although you have made some progress in adjusting to your losses, you suffer a cognitive and emotional setback each time you have corrective surgery (with general anesthesia) for your accident-related injuries. Emotionally, you have shown recovery from your surgeries to your pre-surgery baseline level.

In Dr. Linge's prognoses, he opines that it is obvious you cannot return to your job as a control-room operator now or in the future. Your continued reconstructive surgical status combined with your ongoing mood fluctuations would also preclude you from any other gainful work in the near future (2-3 years).

Finally Dr. Linge stated that you are both hopeful that you can eventually return to the workforce in some capacity as your past excellent work record is a source of pride and self esteem.

We have thoroughly evaluated the documentation in the file as well as the documentation received for the purpose of your appeal.

Summary

Although it is evident you are suffering from some discomfort associated with your medical condition, the information currently in file does not contain any objective

medical documentation to support total and permanent disability. The file does not substantiate your inability to return to any job for the remainder of your lifetime. Therefore, since the permanency of your condition cannot be established, we are upholding our decision to deny your claim.

Please contact your employer for the status of your Group Life Insurance and to determine whether you may be eligible for conversion.

You may again appeal this decision. If you elect to do so, you or your authorized representative must make the appeal in writing. Your appeal must be submitted within 180 days of the receipt of this letter. The appeal may identify the issues and provide other comments or additional evidence you wish considered. You are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to your claim. The written appeal should be submitted to:

Waiver of Premium Appeals Review
The Prudential Insurance Company Of America
Waiver of Premium Division
PO Box 482
Livingston NJ 07039

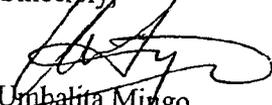
A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Senior Management Team expects to render a decision shall be furnished to you within the initial 45-day period. However, if the Senior Management Team requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

If our decision to deny benefits is upheld at the second level of appeal, you may file a voluntary third appeal. The same time frame for the first appeal will apply to the third appeal. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal.

After completion of the first two levels of appeal, you may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the above address or call (800) 524-0542, extension 7123. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,


Umbalita Mingo
Associate Disability Manager

April 5, 2004

Umbalita Mingo
Associate Disability Manager
Waiver of Premium Appeals Review
The Prudential Insurance Company of America
Waiver of Premium Division
P.O. Box 482
Livingston, NJ 07039

In re: Claimant: Lou Ann Tylwalk
 Control No. 90452
 Claim No.: 10469216
 Date of Birth: 10/25/1958
 Your letter dated December 22, 2003, Upholding
 decision to deny my claim for Total and
 Permanent Disability Benefits under Group
 Policy G-90452 issued to Sithe Energies, Inc.

Dear Mr. Mingo:

I do hereby appeal from your determination that your earlier decision was appropriate in denying my claim for Total and Permanent Disability Benefits under Group Policy G-90452 issued to Sithe Energies, Inc.

I disagree with your determination for the following reason: I have secured an opinion of Dr. Ronald Lingle dated March 23, 2004, in which he makes it clear that I am "totally and permanently disabled from performing any work in any capacity for the remainder of [my] life." The basis set forth in your letters of September 22, 2003, and December 22, 2003, both are based upon Dr. Lingle's report. I also incorporate the content of my letter of December 26, 2003, a copy of which is enclosed with attachments, which make clear that I am totally and permanently disabled.

In support of this letter, I herein submit the following:

1. my letter to Mr. Caruso dated November 26, 2003;
- and

Exhibit "D"

Umbalita Mingo

April 5, 2004

2

2. letter from Ronald Lingle, Psychologist, dated
March 23, 2004.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6484

P.S. I have a yellow tab on the most recent letter of Dr. Lingle.

Lou Ann Tylwalk

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only - No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here: CLEARFIELD PA APR 6 2004

Sent To: Umbalita Mingo Assoc. Disability Mgr.
 Street, Apt. No., or PO Box No.: Waiver of Premium Appeals Review
 City, State, ZIP+4: The Prudential Ins. Co. of America
 PO Box 482, Livingston, NJ 07039

PS Form 3800, January 2001

7001 2510 0002 0000 0752 7002
 4949 6E99 2000 0752 7002

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Address</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <i>4/9</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below: _____</p>
<p>1. Article Addressed to: Umbalita Mingo Assoc. Disability Mgr. Waiver of Premium Appeals Review The Prudential Insurance Co. of America Waiver of Premium Division P.O. Box 482 Livingston, NJ 07039</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-15

November 26, 2003

Christopher J. Caruso
Disability Claims Manager
The Prudential Insurance Company
Of America
Waiver of Premium
P.O. Box 482
Livingston, NJ 07039

In re: Your letter dated September 22, 2003 denying my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy

Dear Mr. Caruso:

I do hereby appeal from your decision regarding my claim for continuation of my benefits payable during my total and permanent disability under Group Policy G-90452 issued to Reliant Energy.

I disagree with your determination for the following reasons: The reports in this case indicate I have suffered a traumatic head and face injury, a traumatic brain injury resulting in a cognitive disorder, mood disorder, and depression, as a result of which I am totally and permanently disabled. In addition to my injuries I am currently taking the following medications:

80 mg oxycontin 2 x day - pain killer
15 mg buspar 2 x day - antidepressant
150 mg wellbutrin 2 x day - antidepressant
100 mg peri-colace 2 x day - to prevent constipation
150 mg trazodone 1 x day antidepressant and sleep aid.

November 26, 2003

2.

As a result of my injuries and current medications I am unable to work. The Commonwealth of Pennsylvania has reviewed my injuries and has paid the statutory limits for my injuries. None of my doctors or psychologists have indicated I will be able to return to work at any time in the future.

The suggestion in your decision that I can return to work has been taken out of context of the report of my psychologist, Ronald Lingle. The entire statement is as follows:

"Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life." (emphasis added)

The entire statement recognizes my injuries are permanent and that my disability remains total based on those injuries.

My name, policy number and claim number is as follows:

Name and Address: Lou Ann Tylwalk
119 South High Street
Clearfield, PA 16830

Policy Number: G-90452

Claim Number: 10469216.

The medical evidence I am submitting is as follows:

1. Report and Opinion of Dr. Guy Catone;
2. Report and Opinion of Dr. Ronald Lingle;
3. Social Security Disability Record.

CHRISTOPHER S. CARABO

November 26, 2003

3

Should you require any further information, please direct your request to my authorized representative:

Carl A. Belin, Jr., Esquire
Belin & Kubista
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972.

Sincerely,



Lou Ann Tylwalk

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0002 6639 6446

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

CLEARFIELD PA 16030
 Postmark
 NOV 26 2003
 USPS

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To
 Christopher J. Caruso, Disability Claims Manager
 Prudential Insurance Co., Waiver of Premiums
 P.O. Box 482
 Livingston, NJ 07039

PS Form 3811, July 1999

7001 2510 0002 6639 6446

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY						
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<table border="1"> <tr> <td>A. Received by (Please Print Clearly)</td> <td>B. Date of Delivery</td> </tr> <tr> <td>C. Signature <i>[Signature]</i></td> <td><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</td> </tr> <tr> <td>D. Is delivery address different from item 1? If YES, enter delivery address below:</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table>	A. Received by (Please Print Clearly)	B. Date of Delivery	C. Signature <i>[Signature]</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No
A. Received by (Please Print Clearly)	B. Date of Delivery						
C. Signature <i>[Signature]</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee						
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input type="checkbox"/> No						
1. Article Addressed to: Christopher J. Caruso Disability Claims Manager Prudential Insurance Co. Waiver of Premium P.O. Box 482 Livingston, NJ 07039	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.						
2. Article Number (Copy from)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes						
7001 2510 0002 6639 6446							

Dr. Guy A. Catone DDS, DMD

May 5, 2003

RE: Lou Ann Tylwalk

Diplomat, American Board of Oral and Maxillofacial Surgery
 Fellow, American Academy of Cosmetic Surgery
 Fellow, American Association of Oral and Maxillofacial Surgeons

Carl A. Belin Jr.
 Belin & Kubista
 Attorneys at Law
 15 North Front Street
 PO Box 1
 Clearfield, PA 16830

Dear Mr. Belin:

Subject: Medical report

This is in response to your letter of April 28, 2003 concerning the injuries sustained by Lou Ann Tylwalk and the surgery used to address these injuries. Lou Ann Tylwalk at the time of the injury was a 42-year-old woman who was camping in a forest when a tree branch fell and struck her in the face and skull. She suffered a closed head injury, multiple facial skeletal fractures, a fractured right frontal bone and supraorbital rim, nasal bone fractures, naso-orbital ethmoidal fractures, bilateral zygomaticomaxillary complex fractures, blow out fracture of the right orbital floor, Le Fort I maxillary fracture, fracture of the right coronoid process of the mandible, and facial and scalp lacerations and abrasions. She was taken via Life Flight at Allegheny General Hospital and admitted to the Shock Trauma Unit. After initial resuscitation, her facial/skull injuries were surgically addressed.

The patient was taken to the operating room on August 31, 2001 and at that time a bicoronal flap of the skull was developed and the right-sided Le Fort fracture was repaired; the right zygomatic bone body and arch fracture repaired along with repair and reduction of the right supraorbital fracture of the frontal bone. A Killian ("open sky") midline approach was made to repair multiple nasal bone fractures with reconstruction of the nasal bridge with Leibinger mesh. The patient was brought back to the operating room on September 10, 2001 and the blow out fracture of the left orbital floor and blow in fracture of the right orbital floor were repaired. The patient tolerated the anesthesia and surgery well and was discharged to home to be followed up regularly.

As a result of postoperative follow up visits it was noted that the patient had difficulty opening her mouth. This was due to an extra-articular ankylosis of the right jaw joint secondary to a fracture of the coronoid process on this side. She was subsequently readmitted on November 02, 2001 and a right coronoidectomy was performed. She progressed well after surgery and was able to open her mouth to near normal levels and be able to masticate food and articulate words quite well.

Monroeville•Oakland North Side•Baden

West Penn Allegheny Health System Forbes Regional • Professional Office Bldg. 1 • Suite 104 •
 2566 Haymaker Road

Monroeville, Pennsylvania 15146-3594

Telephone: (412) 374-9030 Fax: (412) 373-9437

She did well after the surgery in November of 2001. There was some residual enophthalmos of the right orbit and a decreased width of the left palpebral fissure. She also experienced significant post-traumatic resorption of the upper jaw. She was regularly observed in the Maxillofacial Unit at Allegheny General Hospital until February 2002. On February 4, 2002 she was admitted once again to Allegheny General Hospital. At that time the lack of bone in the upper jaw was managed by grafting corticocancellous bone from the posterior iliac crest (right) to the maxillary sinuses bilaterally. It was not possible to place dental implants into the upper jaw because of the lack of bone to stabilize the dental implants needed during the process of osseousintegration of these fixtures.

The patient was once again followed in the outpatient offices at Allegheny General Hospital. During this time period remodeling of the bone in the right malar region caused an asymmetry of the face so that the right face appeared to be flattened. The right and left eyebrows appeared to be ptotic (drooping), there were adhesions at the right frontozygomatic and infraorbital regions, and the enophthalmos of the right eye persisted. This was treated on June 14, 2002 by admitting her to the Short Procedure Unit at Allegheny General Hospital. At that time she had a right-sided cheek implant placed, a surgical browlift to elevate the eyebrows, lysis of adhesions around the right frontozygomatic suture and right inferior orbital rim with removal of the bone plates and screws. A Silastic implant was placed into the right orbital floor to attempt to elevate the right globe. Another admission on September 23, 2002 was to place endosseous implants into the maxilla. On exploration of the maxilla it was found that there still was not enough bone to place dental implants so that the surgical site was closed and the patient was prepared for another bone graft to the upper jaw.

Mrs. Tylwalk was readmitted on September 27, 2002 and the following procedures were done to attempt to rebuild the upper jaw: left posterior iliac crest corticocancellous bone procurement, drawing of a unit of blood for platelet rich plasma, right unicoronal flap with harvest of calvarial graft, corticocancellous graft to the upper jaw and skull graft to lateral and anterior aspects of the upper jaw. She accepted these bone grafts and on April 25, 2003 multiple dental implants (6) were placed into the maxilla. Further a left lateral canthopexy was performed.

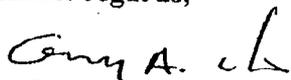
She has progressed well after her last surgery involving the dental implants. The left lower eyelid now appears to be functionally and aesthetically better. The implants placed on April 25, 2003 appear to be well-positioned and the prognosis of these dental implants are good based upon the volume of bone in the upper jaw into which they were placed. She continues to have enophthalmos of the right orbit and eyeball. This may be addressed in the near future. After a period of 6-8 months the dental implants can be exposed and prosthodontics begun to replace her upper and lower dentures.

The prognosis for her facial injuries is good and she will be left with some residual disabilities related to moderate double vision in the right eye. She will continue to

require psychological counseling and treatment, which will be under the purview of her primary care physician and therapist. The double vision and psychological problems will be permanent albeit somewhat improved over time.

If you require further information regarding Lou Ann Tylwalk please don't hesitate to call my office at your convenience.

Kindest regards,



Dr. Guy A. Catone
Associate Professor Department of Medicine
Drexel College of Medicine
Division of Oral and Maxillofacial Surgery
West Penn Allegheny Health System

Ronald M. Lingle, Psychologist

May 16, 2003

Carl Belin, Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk DOB: 10/25/1958 Request for report treatment history

Dear Mr. Belin,

Here is a summary of my evaluation, treatment, and prognosis of Lou Ann Tylwalk, per your request of 5/12/03. Please contact me if clarification or further information is required.

History of current illness:

Reports obtained by this psychologist from DuBois Regional Medical Center (DRMC) and Allegheny General Hospital (AGH) show that Lou Ann was initially stabilized on 8/24/01, at DRMC's ER after a large tree limb fell at night from a tree, onto her tent, while she was camping at a local park. According to ER records at AGH, where she was transported by helicopter, Lou Ann was a "life or death" admission to their facility with "Skull Fractures and Coma, NOS" (Earl Floyd Scott, MD, 9/17/01), among many other injuries. Dr. Ahmed Halal indicated on his discharge summary of 9/14/01 that Lou Ann had a "positive loss of consciousness and amnesia." She required mechanical ventilation for more than 4 days to survive and was treated in the hospital's Neuro ICU due to her brain injuries and status. Because of agitation and disorientation, Lou Ann was placed on Ativan and Haldol during her stay in the NICU. She eventually was stepped down to a regular unit, where she stayed for the remainder of her acute hospitalization. She was transferred three weeks after the injury to DRMC's Rehabilitation Unit for a one week stay, mostly due to safety issues resulting from her brain injury. Dania Fischer from AGH's Neuropsychology department wrote on her consult of 9/12/01, "Supervision is recommended, particularly when safety is an issue."

At DRMC, Lou Ann was admitted by Psychiatrist, Laun Hallstrom, M.D. on 9/14/01 and diagnosed with "status post facial trauma with history of subarachnoid hemorrhage and subdural hemorrhage." He ordered a plan of rehabilitation that included "supervision outside of the room associated with impulsivity" as well as a neuropsychological evaluation. This evaluation was conducted by Dr. Gregory Martino on 9/18/01 with the following findings: "General intellectual status was . . . in the low average range which was . . . significantly below expectation given her reported experiential background; Notable deficits were indicated in higher-level reasoning, information processing, and working memory abilities." Dr. Martino further stated that ". . . she is not a good candidate for employment . . ." and recommended "follow-up neuropsychological evaluation in 6-9 months." He also recommended that she refrain from performing potentially dangerous tasks that require adequate working memory, spatial reasoning, speeded response, and higher-level reasoning skills . . ." Lou Ann was discharged home on 9/19/01 with constant supervision for ambulation due to "traumatic brain injury with impulsivity and cognitive deficits" (L. Hallstrom, M.D., Discharge Summary 9/19/03). She returned to her home with supervision of family and Home Health Speech

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R o n a l d M . L i n g l e , P s y c h o l o g i s t

Therapy for cognitive deficits and an assortment of follow-up medical appointments, medications, and other instructions.

Evaluation:

As is often the case status post traumatic head injury, Lou Ann developed a rather severe depression about six months after the accident which caused her to be sad, feel more discouraged, lack motivation, avoid social contact with others, and lose all interest in previously enjoyed activities. I was referred her case in March 2002 by a Speech Therapist who was providing cognitive rehabilitation to her, at the time, on an outpatient basis. I first saw Lou Ann on 3/25/02 with diagnoses of Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She demonstrated decreased speed of cognition, flat affect with downward, left-facing gaze, and significantly depressed and anxious mood. She also, still had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). As my specialty is in working with adjustment to serious injury/illness, I assessed and worked with her depression and family issues related to her life-changing injury. We decided on a plan of regular outpatient psychotherapy that included psychoeducation of traumatic brain injury and sequelae, cognitive-behavioral therapy of depression and anxiety, marital therapy for education and grief/loss processing, and consultation with her PCP related to the pharmacotherapy of her depression, anxiety, and cognitive symptoms.

Treatment:

Sessions have continued to this date, averaging weekly to biweekly depending upon her status. As of this date, I have seen her (or her family) a total of 35 sessions. Although she has made relatively good progress in adjusting to her losses, she suffers a setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Lou Ann has been hospitalized for continuing facial surgery in June of 2002 and then again in September 2002. After each surgery, Lou Ann has experienced a return of severe depression combined with a decline in cognitive abilities that resulted in major changes in her psychopharmacology and psychotherapy each time. After the June surgeries it took two months of weekly psychotherapy and changes/increases in her antidepressants and hypnotics for her to return to her pre-June level of mood and cognition. Her most recent hospitalization in September of 2002 was especially difficult with Lou Ann requiring extensive changes in her antidepressant medication and weekly psychotherapy to continue functioning semi-independently. It took until January of 2003 for her to return to the level of mood and cognition that she achieved just two months after the June surgery. She also received surgery in August of 2002 and April of 2003 but was not admitted into the hospital nor received any general anesthetics.

As one of goals of our treatment plan was to consult with her PCP regarding pharmacotherapy of depression, anxiety, and cognition, regular contacts with Dr. Joseph Vetrano were completed. At least three different medication strategies were tried until the current regimen of Wellbutrin, Buspar, and Trazadone for her emotional and cognitive difficulties was achieved. Please contact Dr. Vetrano for exact medication dosages and times as he is the prescriber of record. She has had two major changes in her antidepressant medications since June of 2002. Due to her severe mood decrease after the June surgery, Dr. Vetrano placed her on Remeron in July with very poor results. She did not improve in mood or sleep and gained over 10 pounds. He stopped this medication and restarted the Luvox, Trazadone and Ambien. She recovered fairly well and went into the surgery in

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Ronald M. Lingle, Psychologist

September with only a mild level of depressive symptoms and good sleep on the Trazadone. Unfortunately, Lou Ann became very depressed after the extensive surgery in September and more medication changes were tried. She was started on Wellbutrin due to her depression, cognition, and tobacco addiction. Her surgeon in Pittsburgh was concerned about low calcium levels and inadequate bone healing in the presence of regular cigarette smoking. It took an extended time for the Wellbutrin to show its expected antidepressant effect on Lou Ann. Lou Ann has shown slow but continued improvement in her recovery from the most recent exacerbation of depression. We have met weekly (on average) from September through December (2002) with improvements in her depression but continued reports of anxiety and agitation. I met with her PCP, Dr. J. Vetrano on 12/31/02 and requested his assistance with this continuing issue. He prescribed Buspar 5 mgs. bid, (in addition to her Wellbutrin and Trazadone) and Lou Ann began this additional treatment later that day. The addition of the Buspar seems to have given Lou Ann the antidepressant and anxiolytic effect she needed while giving her the additional benefits of improved smoking control and better perceived cognition. Psychotherapy continued 3-4 times per month until her latest surgery in April. After a period of physical recovery, we are re-starting therapy with our next session scheduled May 19, 2003. Phone consultations have been provided on an as needed basis to Lou Ann and her husband on an as needed basis since we began treatment in March of 2002.

Current Functioning Status:

This examiner's current diagnosis of Lou Ann continues to be Mood Disorder (Depression) secondary to Traumatic Brain Injury (293.83) and Cognitive Disorder, NOS (294.90). She still has difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (multitasking). We continue to work with her depression and family issues related to her life-changing injury. It is quite clear that she continues to have cognitive slowing and problems with multitasking, although she is now able to be alone at home for longer periods and is completing (when able) a number of household tasks such as washing dishes, running the sweeper, dusting, and crafts. Lou Ann is not capable of handling any complex life planning, money handling, or legal decision-making. Fortunately, Lou Ann does have insight into her losses and current condition and defers these decisions to her husband.

Although she has made some progress in adjusting to her losses, she suffers a cognitive and emotional setback each time she has corrective surgery (with general anesthesia) for her accident-related facial injuries. Recent surgeries were in June, August, and September (of 2002) and in April of 2003, with more pending in the future. Emotionally, she has shown recovery from her surgeries to her pre-surgery baseline level.

Prognosis:

This psychologist has met with Lou Ann a total of 35 times over the last 14 months for treatment of symptoms of depression, anxiety, family stress, and decreased cognition that were not a part of her life before the traumatic head injury of August 2001. Although this examiner is not a Neuropsychologist, it is obvious that Lou Ann Tylwalk cannot return to her job as a control-room operator now or in the future. As it has been over a year and a half since the accident and brain injury, with very little further cognitive recovery expected from this point, it would be dangerous to subject Lou Ann and/or others at the plant to the possibility of mistakes in judgment resulting from this injury. Her continued reconstructive surgical status combined with her ongoing mood

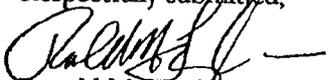
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R o n a l d M . L i n g l e , P s y c h o l o g i s t

fluctuations would also preclude any other gainful work in the near future (2-3 years). Further prognosis past this point will require neuropsychological, psychological, and occupational testing to determine physical, cognitive, and emotional readiness for employment.

Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity as her past excellent work record is a source of pride and self-esteem for Lou Ann. She is putting a great deal of effort into putting her life back together since the accident, however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life.

Respectfully submitted,


Ronald M. Lingle, MA
Psychologist

P . O . B o x 1 2 • H y d e , P A • 1 6 8 4 3 - 0 0 1 2
P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

Social Security Administration
Retirement, Survivors and Disability Insurance
Notice of Award

Office of Central Operations
1500 Woodlawn Drive
Baltimore, Maryland 21241-1500
Date: April 4, 2003
Claim Number: 160-48-3192HA

0331 MCS,PC7,I,BA,058,153
LOU A TYLWALK
119 HIGH ST
CLEARFIELD, PA 16830-2371

000025228 03 MB 0.318



You are entitled to monthly disability benefits beginning February 2002.

The Date You Became Disabled

We found that you became disabled under our rules on August 24, 2001.

However, you have to be disabled for 5 full calendar months in a row before you can be entitled to benefits. For these reasons, your first month of entitlement to benefits is February 2002.

What We Will Pay And When

- You will receive \$18,310.00 around April 10, 2003.
- This is the money you are due for February 2002 through March 2003.
- Your next payment of \$1,720.00, which is for April 2003, will be received on or about the fourth Wednesday of May 2003.
- After that you will receive \$1,720.00 on or about the fourth Wednesday of each month.
- These and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.
- Later in this letter, we will show you how we figured these amounts.

The day we make payments on this record is based on your date of birth.

Enclosure(s):
Pub 05-10153
Pub 05-10058

C

See Next Page

POST THIS LETTER WITH THIS LABEL TO THE SOCIAL SECURITY ADMINISTRATION

Your Benefits

The following chart shows your benefit amount(s) before any deductions or rounding. The amount you actually receive(s) may differ from your full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

Beginning Date	Benefit Amount	Reason
February 2002	\$1,696.90	Entitlement began
December 2002	\$1,720.60	Cost-of-living adjustment

Information About Lawyer's Fees

We have approved the fee agreement between you and your lawyer.

Your past-due benefits are \$22,120.00 for February 2002 through February 2003. Under the fee agreement, the lawyer cannot charge you more than \$5,300.00 for his or her work. The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports). This is a matter between you and the lawyer.

How To Ask Us To Review The Determination On The Fee Amount

You, the lawyer or the person who decided your case can ask us to review the amount of the fee we say the lawyer can charge.

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter. Tell us that you disagree with the amount of the fee and give your reasons. Send your request to this address:

Social Security Administration
Office of Hearings and Appeals
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The lawyer also has 15 days to write us if he or she thinks the amount of the fee is too low.

If we do not hear from you or the lawyer, we will assume you both agree with the amount of the fee shown.

Information About Past-Due Benefits Withheld To Pay A Lawyer

Because of the law, we usually withhold 25 percent of the total past-due benefits to pay an approved lawyer's fee. We withheld \$5,530.00 from your past-due benefits to pay the lawyer.

We are paying the lawyer from the benefits we withheld. Therefore, we must collect from the lawyer a service charge of 6.3 percent of the fee amount we pay. We will subtract the service charge from the amount payable to the lawyer. This means that we subtract \$333.90 from the \$5,300.00 we are paying toward the lawyer's fee, and send him or her \$4,966.10. After we subtract the amount we are paying towards the lawyer's fee, we will send you the balance of the amount withheld.

The lawyer cannot ask you to pay for the service charge. If the lawyer disagrees with the amount of the service charge, he or she must write to the address shown at the top of this letter. The lawyer must tell us why he or she disagrees within 15 days from the day he or she gets this letter.

Other Social Security Benefits

The benefit described in this letter is the only one you can receive from Social Security. If you think that you might qualify for another kind of Social Security benefit in the future, you will have to file another application.

Your Responsibilities

The decisions we made on your claim are based on information you gave us. If this information changes, it could affect your benefits. For this reason, it is important that you report changes to us right away.

We have enclosed a pamphlet, "When You Get Social Security Disability Benefits...What You Need To Know." It will tell you what must be reported and how to report. Please be sure to read the parts of the pamphlet which explain what to do if you go to work or if your health improves.

A provider of employment or vocational rehabilitation services may contact you about getting help to go to work. The provider may be a State vocational rehabilitation agency or a provider under contract with the Social Security Administration.

If you go to work, special rules allow us to continue your cash payments and health care coverage. For more information about how work and earnings affect disability benefits, call or visit any Social Security office and ask for the following publications:

- Social Security - Working While Disabled...How We Can Help (SSA Publication No. 05-10095).
- Social Security - If You Are Blind--How We Can Help (SSA Publication No. 05-10052).

Other Information

We are sending a copy of this notice to JOHN J MULROONEY II and GERALD W FOULDS.

Do You Disagree With The Decision?

You have already been notified of your appeal rights regarding the decision made by the Administrative Law Judge and what you must do to have that decision reexamined. If you believe that any other determination made by us in carrying out the Administrative Law Judge decision is incorrect, you may also request that part of your case be reexamined.

If you want this reconsideration, you may request it through any Social Security office. If additional evidence is available, you should submit it with your request. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim". It contains more information about the appeal.

Things To Remember For The Future

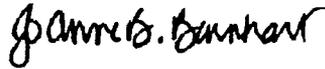
Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

If You Have Any Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-814-371-8099. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
480 JEFFERS STREET
DUBOIS, PA 15801

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.



Jo Anne B. Barnhart
Commissioner
of Social Security



PAYMENT SUMMARY

Your Payment Of \$18,310.00

Here is how we figured your first payment:

Benefits due for February 2002
 through March 2003
 including any cost of living increase,
 less monthly rounding of benefits \$23,840.00

Amount we subtracted because of

- money to pay your lawyer 5,530.00

This equals the amount of
 your first payment \$18,310.00

Your Regular Monthly Payment

Here is how we figured your regular monthly payment effective April 2003:

You are entitled to a monthly benefit of \$ 1,720.60

Amount we subtracted because of

- rounding (we must round down to a whole dollar)60

This equals the amount of
 your regular monthly payment \$ 1,720.00

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

DECISION

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk
(Claimant)

Period of Disability and
Disability Insurance Benefits

(Wage Earner)

160-48-3192
(Social Security Number)

PROCEDURAL HISTORY & JURISDICTION

The claimant protectively filed the instant application for disability insurance benefits on May 15, 2002 (Exhibits 1D-2D), alleging disability due to problems with reasoning, short-term memory, and multiple tasking due to head injuries, and post traumatic stress syndrome (Exhibit 2E). Following denial of her claim initially, the claimant timely filed a request for hearing which is presently before the undersigned.

ISSUES

The general issue is whether the claimant is entitled to a Period of Disability and to Disability Insurance Benefits under Sections 216(i) and 223 of the Social Security Act. The specific issue is whether she is under a disability, defined as the inability to engage in any substantial gainful activity by reason of an impairment expected either to result in death or last for a continuous period of at least 12 months.

An additional issue pertains to insured status. Information contained in the claimant's earnings record (Exhibit 3D) reveals she acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

CONCLUSION

After giving careful consideration to all of the evidence, the undersigned has concluded that a favorable decision is warranted without the need for testimony. Thus, no hearing was held.

The documentary records support a finding that beginning August 24, 2001, the claimant has had an impairment which meets Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled within the meaning of the Social Security Act and Regulations.

EVALUATION OF THE EVIDENCE

Under the authority of the Social Security Act, the Social Security Administration has established a sequential evaluation process followed in determining disability (20 CFR 404.1520). The first step in this process concerns the question of when the claimant last engaged in substantial gainful activity.

A forty-four year old individual with a high school education (Exhibit 2E), the claimant has past relevant work experience as a power plant control operator (Exhibits 3D; 2E-3E).

The evidence shows the claimant has not worked since alleging disability on August 24, 2001, and consequently, has not been engaging in substantial gainful activity, as defined in 20 CFR 404.1510.

The evidence supports a finding that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are medically determinable, impose limitations with more than a minimal effect on her physical ability to do basic work, and have lasted 12 continuous months or more. Thus, these impairments are "severe" as defined by 20 CFR 404.1520 and Social Security Ruling 85-28.

After reviewing the entire matter, including all pertinent exhibits, the undersigned finds the claimant's impairments meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Regarding the claimant's mental condition, the evidence in this case shows status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression.

Ronald Lingle, M.A., the claimant's treating psychologist, correctly summarized the claimant's treatment as involving hospitalization during August 24 through September 15, 2001 for a traumatic brain injury and multiple skull and facial fractures, and rehabilitation during September 15-19, 1991 (Exhibit 2F).

Mr. Lingle on July 23, 2002 reported the claimant had a poor to nonexistent prognosis of returning to her premorbid employment, given she lacked ability to concentrate and multitask necessary for the job of control room operator at a power plant (Exhibit 22F). He reported she required more facial and oral surgeries, and that it seemed the anesthesia and stress of surgery set her back emotionally and cognitively after each surgery (Exhibit 22F).

Mr. Lingle reported the claimant had fair to poor abilities to make occupational adjustments, good to poor abilities to make performance adjustments, and good to fair abilities to make personal-social adjustments (Exhibit 22F). In particular, she reported the claimant had poor abilities to interact with supervisors, deal with work stresses, function independently, and understand, remember, and carry out complex tasks or job instructions (Exhibit 22F).

Mr. Lingle reported the claimant during weekly psychotherapy for adjustment to traumatic brain injury and her disfiguring life-threatening injury became increasingly anxious and agitated with complex details and information during the sessions (Exhibit 22F). He reported observing decrease in self-care and increase in withdrawal from socialization (Exhibit 22F). He reported the claimant was self-conscious of her facial disfigurement and loss of teeth, and demonstrated increasing anxiety and agitation around others (Exhibit 22F). He reported the claimant had an increase in symptoms of depression and anxiety with her depression being in the severe range of 28 on the Beck Depression Inventory on July 8, 2002 (Exhibit 22F). He reported the claimant could not handle complex information under stress (Exhibit 22F).

Mr. Lingle reported she demonstrated difficulties performing activities of daily living on a daily basis, needed prompting from her husband for personal care, health, and hygiene, and needed help from her husband to shop, maintain her residence, and take care of her health care needs (Exhibit 22F).

Mr. Lingle reported the claimant demonstrated difficulties getting along with others (Exhibit 22F). He reported she had difficulty maintaining a daily household routine and completing all tasks necessary to remember appointments independently (Exhibit 22F). He reported when she was depressed she did not cook, clean, or do most of her activities of daily living without prompting (Exhibit 22F).

Regarding her memory, Mr. Lingle reported the claimant remembered little information between the day of the accident and a number of months thereafter, since her memories did not begin until the claimant's rehabilitation (Exhibit 22F). He reported the claimant could not multitask large amounts of information and overloaded easily (Exhibit 22F). He reported she had trouble with details and complex information (Exhibit 22F). He reported her immediate retention and recall was poor for complex or large amounts of information (Exhibit 22F).

Regarding her impulse control, Mr. Lingle reported the claimant remained quick to anger, irritability, and frustration, and said things she later regretted (Exhibit 22F). He reported the claimant had panic attacks when in crowded rooms (Exhibit 22F).

Mr. Lingle reported the claimant appeared sad and depressed (Exhibit 22F). He reported she had a decreased activity level and stayed in her home more than she did before the accident (Exhibit 22F). He reported she was extremely self-conscious due to her injuries and inability to process information quickly (Exhibit 22F). He reported she had increased irritability and decreased frustration tolerance (Exhibit 22F).

On December 29, 2002 the claimant provided an update to his July 23, 2002 report (Exhibit 30F). He reported the claimant was hospitalized for continuing facial surgery in June, 2002 and September, 2002, after which she experienced a return of severe depression and a decline in her cognitive abilities (Exhibit 30F). He reported she continued to have poor concentration and memory, and had difficulty with working memory, spatial reasoning, speeded response, and processing multiple sources of information (Exhibit 30F). He reported she continued to have cognitive slowing and problems with multitasking (Exhibit 30F). He reported she needed more surgery in the future, but that she continued to suffer setbacks after surgery (Exhibit 30F). He reported very little further cognitive recovery was expected (Exhibit 30F). He concluded if she returned to work she might cause injury to herself or others (Exhibit 30F).

Indeed, controlling weight is afforded Mr. Lingle's assessment, as it is rendered by a treating mental health expert, consistent with the objective and clinical findings of record, and is not otherwise inconsistent with other substantial evidence contained in the case record (Social Security Ruling 96-2p).

Additional medical evidence supporting the findings in Exhibits 22F and 30F is present in Exhibits 3F; 11F-12F; 17F; 29F. Full analysis of these Exhibits is unnecessary given the Undersigned accepts, and finds full support for meeting Listing 12.02 in, Exhibits 22F and 30F.

Based on the above, the undersigned concludes as to activities of daily living, there are marked limitations. As to social functioning, there are marked limitations. As to concentration, persistence, and pace, there are marked limitations. Finally, as to the fourth "B" criteria, there is no evidence the claimant has experienced one or more episodes of decompensation, each of extended duration.

A claimant's mental condition meets the requirements of Listing 12.02, when the claimant has psychological or behavioral abnormalities associated with brain dysfunction, with a history and physical examination or laboratory tests demonstrating the presence of a specific organic factor judged to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The claimant's condition must meet the "C" criteria, or the "A" criteria and two of the "B" criteria regarding activities of daily living, social functioning, maintaining concentration, persistence, or pace, and repeated episodes of decompensation, each of extended duration.

To meet the "A" criteria of Listing 12.02, the claimant needs demonstration of a loss of specific cognitive abilities or affective changes and the medically documented persistence of one of seven conditions. First, disorientation to time and place. Second, a memory impairment, either short-term (inability to learn new information), intermediate, or long-term (inability to remember information that was known sometime in the past). Third, perceptual or thinking disturbances (e.g., hallucinations, delusions). Fourth, change in personality. Fifth, disturbance in mood. Sixth, emotional lability (e.g., explosive temper outbursts, sudden crying, etc.) and impairment in impulse control. Seventh, loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan.

As analyzed above, the claimant's condition meets the requirements of the "A" criteria of Listing 12.02.

As analyzed above, the undersigned concludes the claimant has significant limitations in three of the four "B" criteria, namely, activities of daily living, social functioning, and concentration, persistence, or pace.

In view of the foregoing, it is clear the claimant's mental impairments are severe and meet Section 12.02 of the Listing of Impairments contained in Appendix 1, Subpart P, Regulations No. 4, and therefore, she is disabled based on medical considerations alone.

Because the claimant's mental condition meets the "A" and "B" criteria of Listing 12.02, the "C" criteria need not be analyzed.

In view of the clinical and objective findings, it is clear the claimant's impairments are severe and meet Section 12.02 of Appendix 1, Subpart P, Regulations No. 4. Hence, the claimant is disabled pursuant to Regulations 404.1520(d).

As the claimant is under a disability, the claimant is entitled to receive Disability Insurance Benefits based on her application protectively filed on May 15, 2002.

Regarding the above assessment, a state agency mental health consultant who evaluated the evidence assessed the claimant's condition did not meet the requirements of Listing 12.02 (Exhibits 23F-24F). Although this opinion is entitled to less weight since it was given by a non-examining mental health expert, it is considered a medical opinion and entitled to some weight (Social Security Rulings 96-2p, 96-6p, 96-7p and 96-8p). The state agency mental health consultant was not afforded an opportunity to review the medical evidence received subsequent to her determination. These subsequent reports confirmed the claimant's condition meets the requirements of Listing 12.02.

In view of the severity of the claimant's condition, it appears she would be unable to manage benefits in her own interest. The claimant's treating psychologist reported the claimant could not manage benefits in her own interest (Exhibit 22F). Accordingly, it is recommended she receive benefit payments through a representative payee, specifically her husband.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

1. The claimant met the disability insured status requirements of the Act on August 24, 2001, the date she stated she became unable to work, and has acquired sufficient quarters of coverage to remain insured through at least December 31, 2006.

2. The claimant has not engaged in substantial gainful activity since August 24, 2001 (20 CFR 404.1520(b)).
3. The medical evidence establishes that the claimant is status post a traumatic head and face injury, status post traumatic brain injury, cognitive disorder NOS, mood disorder, and depression, impairments which are severe within the meaning of the Regulations.
4. The severity of the claimant's mental impairments meets the requirements of Section 12.02, Appendix 1, Subpart P, Regulations No. 4, and has precluded her from working for at least twelve continuous months (20 CFR 404.1525).
5. The claimant has been under a disability since August 24, 2001.
6. The claimant is to receive benefit payments through a representative payee.
7. The claimant has been under a disability as defined by the Social Security Act and Regulations since August 24, 2001 (20 CFR 404.1520).

DECISION

It is the decision of the Administrative Law Judge that, based on the application for disability insurance benefits protectively filed on May 15, 2002, the claimant is entitled to a period of disability commencing August 24, 2001, and to disability insurance benefits under Sections 216(i) and 223, respectively, of the Social Security Act, as amended.

Because there is evidence that the claimant may have difficulty in managing her benefits, the undersigned recommends that the component responsible for effectuating this decision determine whether the appointment of a representative payee is warranted.


John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

ORDER

IN THE CASE OF

CLAIM FOR

Lou A. Tylwalk

(Claimant)

Period of Disability and
Disability Insurance Benefits

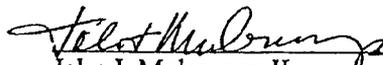
(Wage Earner)

160-48-3192

(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits.

My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.



John J. Mulrooney II
Administrative Law Judge

FEB 28 2003

Date

YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court Order in Holman et al. v. Bowen, (Civ. No. 78-0494, M.D. Pa., May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security Office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800-732-3545.



SOCIAL SECURITY ADMINISTRATION

Refer To: 160-48-3192

Office of Hearings and Appeals
334 Washington Street, Suite 200
Johnstown, Pennsylvania 15901
Telephone: (814) 533-4462

Date: FEB 28 2003

Lou A. Tylwalk
119 S. High Street
Clearfield, PA 16830

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

If You Disagree With The Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal, you or your representative, if you choose to appoint one, must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Hearings and Appeals, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with my decision and you file a new application instead of appealing, you might lose some benefits, or not qualify for any benefits. My decision could also be used to deny a new application for insurance benefits, if the facts and issues are the same. So, if you disagree with this decision, you should file an appeal within 60 days.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (724)371-8099. Its address is 480 Jeffers Street, Dubois PA 15801.

cc: Gerald W. Foulds, Esquire
955 Liberty Ave Ste 402
Pittsburgh, PA 15222

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. No.	Part No.	Description	No. of Pages
<u>MEDICAL RECORDS</u>			
1	F	Emergency Room Records dated 8/2/01 from Clearfield Hospital	4
2	F	Emergency Room Records dated 8/24/01 from DuBois Regional Medical Center	27
3	F	Neuropsychological Screening Evaluation dated 9/18/01 from Gregory M. Martino, Ph.D.	3
4	F	Hospital Records for admission on 8/24/01 through discharge on 9/14/01 from Allegheny General Hospital	42
5	F	Hospital Records for admission on 9/14/01 through discharge on 9/19/01 from DuBois Regional Medical Center	40
6	F	MRI - Orbits and Facial dated 9/27/01 from Rudy J. Nicolas, MD	2
7	F	Hospital Records for admission on 10/1/01 through discharge on 10/4/01 from Clearfield Hospital	12
8	F	Medical Report dated 10/15/01 from David Oliver-Smith, MD	2
9	F	Record of Operation dated 11/2/01 from Allegheny General Hospital	3
10	F	Outpatient records dated 11/9/01 through 11/12/01 from Clearfield Hospital	10
11	F	Clearfield Hospital Home Health Services records dated 10/5/01 through 11/14/01	7
12	F	Outpatient speech/language therapy records dated 9/19/01 through 12/6/01 from DuBois Regional Medical Center	7
13	F	Evaluation record dated 1/25/02 from Allegheny General Neuro-Ophthalmology Dept.	4
14	F	Hospital Records for admission on 2/1/02 through discharge on 2/2/02 from Allegheny General Hospital	6
15	F	Hospital Records for admission on 3/1/02 through discharge on 3/3/02 from Clearfield Hospital	12
16	F	Letter dated 3/4/02 from Richard E. Johnson, DO	1

LIST OF EXHIBITS

Claimant: Lou A. Tylwalk

SSN: 160-48-3192

Exh. No.	Part No.	Description	No. of Pages
17	F	Clearfield Hospital Home Health Services records dated 3/8/02 through 3/27/02	7
18	F	Medical Records covering the period from 9/28/01 to 5/7/02 from Joseph A. Vetrano, MD	21
19	F	Hospital Records for admission on 6/14/02 through discharge on 6/15/02 from Allegheny General Hospital	11
20	F	Report of Contact with Dr. Johnson dated 7/3/02	1
21	F	Medical Records covering the period from 9/25/01 to 7/16/02 from Guy A. Catone, DDS	22
22	F	Psychological Evaluation dated 7/23/02 by Ronald M. Lingle, M.A.	7
23	F	RFC - Residual Functional Capacity Assessment - Mental (completed by DDS physician) dated 7/26/02	4
24	F	Psychiatric Review Technique Form (completed by DDS physician) dated 7/26/02	15
25	F	RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 7/31/02	8
26	F	Hospital Records dated 08/23/02 from Allegheny General Hospital	10
27	F	Hospital Records for admission on 09/27/02 through discharge on 09/30/02 from Allegheny General Hospital	17
28	F	Medical Records covering the period from 10/15/01 to 10/22/02 from Guy A. Catone, D.D.S. (duplicates removed)	16
29	F	Medical Records covering the period from 07/08/02 to 11/08/02 from Joseph Vetrano, M.D. (duplicates removed)	8
30	F	Medical Report dated 12/29/02 from Ronald M. Lingle, MA	4

LIST OF EXHIBITS

CLAIMANT: LOU A. TYLWALK SSN: 160-48-3192

W/E: _____ SSN: _____
(if applicable)

PAYMENT DOCUMENTS/DECISIONS

Section A contains paperwork that shows decisions made by the Social Security Administration and payment documents. Each set of documents is labeled with the section number and numerically as exhibit.

Section A consists of 1 exhibits.

JURISDICTIONAL DOCUMENTS/NOTICES

Section B contains jurisdictional documents (essential paperwork for processing applications and claims). Section B contains notices sent out in the case. Each set of documents is labeled with the section number and numerically as an exhibit.

Section B consists of 6 exhibits.

Section C ordinarily will be empty.

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 3 exhibit.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 8 exhibits.

Part A (Yellow) - Payment Documents/Decisions
Part B (Red) - Jurisdictional Documents/Notices
Part D (Orange) - Non-Disability Development
Part E (Blue) - Disability Related Development and Documentation

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income
Part (DWB) - Disabled Widow/Widower

Ronald M. Lingle, Psychologist

March 23, 2004

Carl A. Belin, Jr. Attorney at Law
15 North Front St.
P.O. Box 1
Clearfield, PA 16830

RE: Lou Ann Tylwalk DOB: 10/25/1958

Dear Mr. Belin,

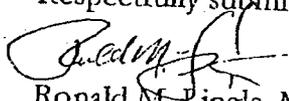
Pursuant to our conversation of 3/12/2004, please accept the following clarification of my opinion expressed in a "Report of treatment history" dated 5/16/2003.

Under the "Prognosis" section of the report on page 4, I stated that *Lou Ann, Charles, and I are hopeful that she can eventually return to the workforce in some capacity, as her past excellent work record is a source of pride and self-esteem for Lou Ann.* I would like to clarify that when that report was written, Lou Ann was having a difficult time grieving the loss of her former active and working life and I did not want to imply in a document that she may have access too, that she could never work in any capacity, ever again. As Lou Ann was/is on two antidepressants, and anti-anxiety pill, and a sleeping pill, I wanted to express some hope in my letter to you, even though **I do not now and never believed that she would work in any capacity again.** Please understand that in my profession, we write every note and letter as if the patient is reading them. As you know, they own the medical record and can see it at any time by law.

Therefore, as Lou Ann Tylwalk's treating psychologist, it is my opinion that Lou Ann Tylwalk is totally and permanently disabled from performing any work in any capacity for the remainder of her life.

I am hopeful that this clarification is helpful and am available to discuss this issue as needed.

Respectfully submitted,


Ronald M. Lingle, MA
Psychologist

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P h o n e : 8 1 4 - 7 6 5 - 6 9 4 1 • F a x : 8 1 4 - 3 7 2 - 2 0 2 0

JUN 11 2004

The Prudential Insurance Company of America
Waiver of Premium
PO Box 482
Livingston, NJ 07039

June 1, 2004

Phone: (800) 524-0542 Ext: 7130
Fax: (973) 548-7530
Hours: 8:30 am to 4:30pm

Lou Ann Tylwalk
119 S. High Street
Clearfield, PA 16830

Claimant: Lou Ann Tylwalk
Control No: 90452
Claim No: 10469216
Date of Birth: 10/25/1958

Dear Ms. Tylwalk:

We have completed our review of your written request for reconsideration of our decision to disallow your claim for the continuation of your Group Life Insurance During Total and Permanent Disability under Group Policy G-90452 issued to Sithe Energies, Inc. We have determined that our decision was appropriate and have upheld our decision to disallow your claim. This letter outlines the reasons for this determination.

The process followed in reviewing your claim involved the following:

- Obtaining and reviewing information regarding the medical condition that you feel prevents you from working.
- Obtaining and reviewing information regarding your daily activities.
- Obtaining and reviewing information regarding your occupation (education, experience, and other occupations that you would be qualified to perform).
- Obtaining and reviewing information regarding your coverage.
- Obtaining and reviewing information regarding your Group Policy provisions.

Group Policy Requirements

In order to be eligible for this benefit you had to become Totally and Permanently Disabled while a covered individual and less than age 60.

Total Disability: You are "Totally Disabled" when:

1. You are not working at any job for wage or profit; and
2. Due to Sickness, Injury or both, you are not able to perform for wage or profit, the material and substantial duties of any job for which you are reasonably fitted by your education, training or experience.

You are Totally and Permanently Disabled when:

- 1) Total Disability exists; and
- 2) Your Total Disability is such that condition (2) of the above Total Disability definition will be met for the remainder of your life time.

Exhibit "E"

Your claim for Total and Permanent Disability was disallowed because we determined that documentation did not support a mental, physical, or combination of impairments that would prevent you from performing the duties of any occupation for the remainder of your lifetime. A complete explanation of our decision can be found in our letter dated December 22, 2003.

Medical Information

Information provided with your Appeal included a medical report from Pittsburgh Facial and Oral Surgery, dated May 05, 2003, a request for report treatment history from Dr. Lingle, dated May 16, 2003, a copy of your Social Security Disability Insurance award report dated April 4, 2003, and a narrative from Dr. Lingle, dated March 23, 2004.

Prudential's Medical Director has thoroughly evaluated the documentation in the file as well as the documentation received for the purpose of your appeal.

In a letter dated November 26, 2003, with an extract from psychologist, Dr. Ronald Lingle, you underlined the last statement, "however residual cognitive impairments and recurrent exacerbations of depression and anxiety are preventing her from attaining a fully independent life".

To substantiate the above underlined statement you included a 'Request for report of treatment history', dated May 16, 2003 by Dr. Lingle. In this report, Dr. Lingle's assessment of your current functioning status indicates that his office has continued to work with you for your depression and family issues related to your life-changing injury.

Dr. Lingle also notes that it is quite clear that you continue to have cognitive slowing and problems with multitasking. However, you are now able to be alone at home for longer periods and are completing a number of household tasks such as washing dishes, running the sweeper, dusting and crafts. He notes that you are not capable of handling any complex life planning, money handling or legal decision-making, and fortunately, you do have insight into your losses and current condition and defer these decisions to your husband.

Dr. Lingle opines that, although you have made some progress in adjusting to your losses, you do suffer a cognitive and emotional setback each time you undergo corrective surgery for your accident-related injuries. Emotionally, you have shown recovery from your surgeries to your pre-surgery baseline level every time.

Dr. Lingle also opines that it is obvious you cannot return to your previous job as a control-room operator now or in the future, and that your continued reconstructive surgical status combined with your ongoing mood fluctuations would also preclude you from any other gainful work in the near future.

Finally Dr. Lingle stated that both he and you are hopeful that you can eventually return to the workforce in some capacity as your past excellent work record is a source of pride and self esteem.

Summary

Although you may continue to suffer from symptoms which prevent you from performing your own occupation as a control room operator, based on the most recent medical documentation in file, we are unable to conclude that your disability prevents you from performing any occupation for which you are qualified based on your education and training for the remainder of your life time. Therefore, you do not meet the definition of Total Disability as defined by this Group Policy, and we are unable to approve your claim.

You may again appeal this decision to Prudential's Appeals Committee for a final decision. If you elect to do so, the appeal must be made in writing by you or your authorized representative. Your appeal must be submitted within 180 days of the receipt of this letter. The appeal may identify the issues and provide other comments or additional evidence you wish considered. You are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to your claim. Please forward your appeal request to me at the above address.

A determination on your claim appeal will be made within 45 days of the receipt of your appeal request. This period may be extended by 45 days if special circumstances require an extension of time. A written notice of the extension, the reason for the extension and the date by which the Appeals Committee expects to render a decision shall be furnished to you within the initial 45-day period. However if the Appeals Committee requests additional information from you and you fail to respond, this period of time may be extended until you provide the requested information.

Please note that this third appeal is voluntary. You are entitled to receive upon request, sufficient information to make a decision about filing this appeal. You may also file a lawsuit under the Employee Retirement Income Security Act (ERISA). ERISA allows you to file suit for policy benefits and reasonable attorney's fees. Your decision on whether to file a third appeal will not affect your rights to sue under ERISA.

If you should have any questions regarding your claim, please contact us at the above address or call (800) 524-0542, extension 7130. Any correspondence should include the identifying information shown at the top of this letter.

Sincerely,

Minnie Titus-Glover
Manager, Claim Operations

COMMONWEALTH OF PENNSYLVANIA

:

SS.

COUNTY OF CLEARFIELD

:

:

Before me, the undersigned Officer, personally appeared
LOU ANN TYLWALK, who being duly sworn according to law, deposes
and says that the facts set forth in the foregoing Complaint
are true and correct to the best of her knowledge, information
and belief.


Lou Ann Tylwalk

SWORN AND SUBSCRIBED before me this 13th day of

August, 2004.


Notary Public

NOTARIAL SEAL
SUSAN M. HARTZFELD, NOTARY PUBLIC
CLEARFIELD BORO., CLEARFIELD COUNTY
MY COMMISSION EXPIRES AUGUST 16, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL DIVISION

LOU ANN TYLWALK

Plaintiff,

v.

THE PRUDENTIAL INSURANCE COMPANY
and RELIANT ENERGY

Defendants.

No. 04-1239-CD

NOTICE OF REMOVAL TO FEDERAL COURT

TO THE PROTHONOTARY:

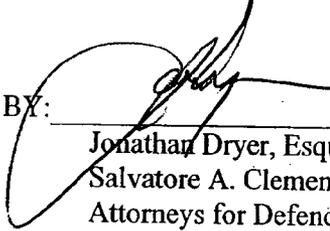
PLEASE TAKE NOTICE that defendant, by its attorneys, has filed a Notice of Removal in the United States District Court for the Western District of Pennsylvania.

A copy of said Notice of Removal is attached to this Notice, and is served and filed herewith. Please take all necessary actions to transfer the file to the Clerk of Court for the United States District Court for the Western District of Pennsylvania.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

BY: _____


Jonathan Dryer, Esquire
Salvatore A. Clemente, Esquire
Attorneys for Defendant
Prudential Insurance Company

Dated: September 8, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL DIVISION

LOU ANN TYLWALK

Plaintiff,

v.

THE PRUDENTIAL INSURANCE COMPANY
and RELIANT ENERGY

Defendants.

No. 04-1239-CD

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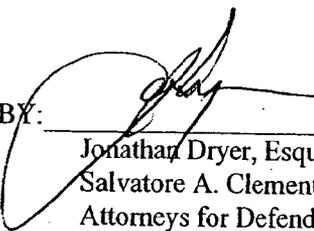
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Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

BY:


Jonathan Dryer, Esquire
Salvatore A. Clemente, Esquire
Attorneys for Defendant
Prudential Insurance Company

Dated: September 8, 2004