

# Love Canal Medical Fund, Inc. Annual Report 1999

## LOVE CANAL MEDICAL FUND, INC. ANNUAL REPORT 1999

### I. INTRODUCTION

This is the report of the Board of Directors for the Love Canal Medical Fund, Inc. (LCMF) for the year 1999. The following two paragraphs describe the creation of the Love Canal Medical Trust Fund and the Love Canal Medical Fund, Inc.

#### **Creation of the Love Canal Medical Trust Fund: Beneficiaries**

On December 20, 1983, the Supreme Court, State of New York, County of Niagara, approved a settlement agreement between the plaintiffs and the defendants in the case of *Urban et al. v. Occidental Chemical Corporation et al.* The settlement agreement called for the establishment of the Love Canal Medical Trust Fund for the benefit of the living plaintiffs of the lawsuit. The purpose of the Medical Trust Fund is to provide future benefits to plaintiffs who incur medical expenses related to medical problems which reasonably could have been associated with exposure to toxic chemicals emanating from a former landfill in Niagara Falls, New York, known as the "Love Canal." Individuals who are eligible for benefits from the Love Canal Medical Trust Fund are limited to those thirteen hundred twenty-eight (1328) plaintiffs who entered into the settlement agreement. The Articles of Incorporation state that the Medical Trust Fund should be in existence until the last eligible recipient is deceased, which is likely to be 80 years from inception.

## **Creation of the Love Canal Medical Fund, Inc.**

On January 4, 1985, the same Court ordered the establishment of a not-for-profit corporation to be named the "Love Canal Medical Fund, Inc." to administer the Love Canal Medical Trust Fund, subject to the Court's supervision. The Court ordered that the Fund receive from the settlement the amount of one million (\$1,000,000) dollars and directed that the Fund report to the Court annually concerning its activities, and that all expenditures be approved by the Court. The Fund's Certificate of Incorporation was filed with the Secretary of State, State of New York, on August 5, 1985. All of the Board's actions are subject to Court approval.

## **II. 1999 ANNUAL REPORT**

### **Board Members**

The initial members of the Board of Directors were appointed by the New York State Supreme Court. Additional Board members have been appointed by the Board and approved by the Court. Half of the Board of Directors consist of one-time residents of Love Canal and half are experts in professions related to administration of the Fund. All Directors volunteer their services. A current list of the Board of Directors is on the last page of this report.

### **Appeals Board**

The Fund established an Appeals Board in 1990. The purpose of the Appeals Board is to review only claims that have been rejected for payment by the Board of Directors because it was determined that the medical problem could not reasonably have been associated with exposure to toxic chemicals at Love Canal. Members of the Appeals Board are contacted at the beginning of each calendar year to ascertain whether they remain willing to participate. Members of the Appeals Board are not paid. The Appeals Board may also be contacted for expert opinion when required. In 1999 this Board consisted of 3 members, with the following professional backgrounds: a primary care physician, an occupational health physician and a toxicologist.

### **Meetings**

The Love Canal Medical Fund Board met in February, July, and November in Niagara Falls, New York.

## Claims Processed

The amount of benefits paid to beneficiaries in 1999 was \$60,275.00. The total amount paid from inception of this Plan up to and including 1999 benefits is \$292,890.00.

## Federal and State Taxes

In 1989, the Love Canal Medical Fund applied for and was granted tax exempt status under Section 501(C)4 of the Internal Revenue Code. Each year, Federal Form 990 is filed with the Internal Revenue Service. A copy is available upon request.

In 1991, LCMF received tax-exempt status from New York State sales tax. All benefits paid to beneficiaries are exempt from federal and state income taxes.

## Medical Benefits Plan and Claims

**Increased claims.** In 1999 there was an increase in the number of claims from beneficiaries and the Love Canal Medical Fund paid more benefits in 1999 than in past years.

A procedure remains in place for approval and payment of claims: Claims are received and processed by Albert F. Stager, Inc. These claims are assigned a file number, so that the identity of the claimant is not known to Board members. The processed claims are then sent to the LCMF Board. Claims are reviewed by the full Board, or its authorized subcommittee between Board meetings who discussed and vote on each claim. The Board's decisions are then given to Albert F. Stager, Inc., who issues payments to beneficiaries. People whose claims are denied are also contacted by Albert F. Stager, Inc., given the reason for the denial, and a description of the appeals process.

**The Appeals Board.** An Appeals Board was established to review claims through an appeal process. If a claim for benefits under the plan is denied in whole or in part, beneficiaries will receive a written notice specifying the reason for the denial; references to pertinent Plan provisions upon which denial is based; an appeal request form with instructions regarding the appeals process. The appeal must be submitted to the Claims Processor in writing within sixty days after the date on the notice of denial. If the claim was denied on the basis that *the medical problem is not covered by the plan because it could not reasonably have been associated with exposure to toxic chemicals at Love Canal*, the claim will be submitted for review to members of the Medical Appeals Board.

Determination of the claim is made by a major vote by Appeal Board Members. Their decision is final and binding.

If the claim was denied *for reasons other than those involving questions of whether the medical problem reasonably could have been associated with Love Canal toxic chemical exposures*, the claim will be reexamined by the Board of Directors. A majority decision rendered by members of the Board of Directors is final and binding.

**Revised Medical Benefit Plan.** In 1999, the Revised Medical Benefit Plan was finalized and submitted for judicial review. Upon receiving judicial approval, the Revised Medical Benefit Plan, dated 1999, was mailed to all participants to the most current address. This process of revising the medical plan began in 1998. The changes are listed in Section III below, Medical Benefit Plan.

**Claims for Board Members.** Some members of the Board of Directors are beneficiaries of the Fund. The Court ruled that Board members who are beneficiaries are entitled to payment of their medical claims. Procedures were established so that Board Members who have a claim against the Fund do not review or vote on their own claims. They are excused from that portion of the meeting. Claims paid to Board members are taken from the principal of the fund and not the earnings of the fund, as directed by the New York State Supreme Court.

## **Financial Matters**

Merrill Lynch manages the Love Canal Medical Fund investments.

Merrill Lynch is investing the bulk of the funds in U.S. Government securities and the remainder in Mutual Funds. All financial matters are approved by the Board of Directors.

A statement describing the account status is sent to the Treasurer and Chairman of the Board each month.

In 1993, LCMF began investing in a socially responsible fund, the Calvert Group, to diversify its investments as well as to ensure continued growth to meet possible future claims over the life of the Trust Fund. In 1999, the Board of Directors increased the investment from the initial \$200,000 to \$300,000.

The Love Canal Medical Fund Board reports annually to the Supreme Court of the State of New York concerning its activities and all financial matters. The Court reviews and approves budget and expenditures annually.

An audit of the financial records of Love Canal Medical Fund for 1998 was conducted by Donald Litwin, CPA, in 1999. A copy of the audit is available upon request.

### **III. Program Changes and Activities**

#### **Medical Benefit Plan**

As of January 1, 1999 several new or modified benefits became available.

- Prescription coverage was increased to \$2,000, effective January 1, 1999 until December 31, 2003.
- Expenses incurred for diagnosis and treatment of mental and emotional disorders was increased to 2,000 effective January 1, 1999 until December 31, 2003.
- Reimbursement for an annual physical was increased from \$150.00 per person per year to \$250.00 per person per year effective January 1, 1999 until December 31, 2003.
- One deductible of \$100.00 will be applied to all beneficiaries, eliminating a separate deductible for participants who did not have insurance coverage (previously \$300 per person per year) effective January 1, 1999 until December 31, 2003.
- Expenses for hearing aids or other devices prescribed by a physician or state licensed audiologist when such expenses are related to a birth defect or other condition diagnosed by a physician or licensed audiologist which could be associated with exposure of toxic chemicals at Love Canal will also be covered, effective January 1, 1999 until December 31, 2003.

All benefits are subject to the conditions, provision, exclusions and limitations set forth in the Medical Benefit Plan.

#### **Additional Board Business**

In 1998, the LCMF Board obtained a non-profit bulk mail stamp and began mailing out quarterly bulletins to the participants. Four bulletins were mailed, out in 1999 resulting in positive response and feedback from the participants.

The Board has continued the effort to locate beneficiaries who have

moved or whose mail is returned as not possible to forward by the U.S. Postal Service.

#### **IV. New Board Members**

The Board of Directors established a policy for reviewing candidates for Board of Director positions. Pauline Pilipauskis, an expert who has worked in the insurance industry, joined the Board of Directors in 1999.

#### **V. The New York State Love Canal Health Study**

The New York State Department of Health is undertaking a study of former Love Canal residents. Several beneficiaries asked the Medical Fund Board members if they had reviewed the study plan and whether they have any helpful information about the merits of the study.

To be able to fully answer our questions, the Board invited representatives from the New York State Department of Health to a meeting. Dr. Nancy Kim and Dr. Ed Fitzgerald from the health department explained the study and answered questions

raised by the board members.

#### **Summary of Information From That Meeting**

The study is looking at everyone who lived at Love Canal from 1940 forward, but is including only people who were still living at Love Canal in 1978. This means if a family lived at Love Canal in 1953 and moved out in 1960 they would not be included. But if that family never moved out of the neighborhood they would be included.

The study will be done almost exclusively by researching existing data bases. This means the health department will be looking at data from cancer and birth defect registries; and from birth and death certificates. From these data bases they will track birth weights, defects, (only when the defect is identified at birth), cancer incidence and limited information on deaths.

They also plan to follow some of the Love Canal children who may have had children of their own. Because they will be using state birth records, they will be able to follow the births of former female residents more consistently than male residents.

This, they say, is because women's names, maiden names, and social security numbers are carried on those records and the baby's father's name is not consistently recorded.

Lastly they plan to analyze blood samples they collected in the late 1970s

from residents. Although the blood samples were partially thawed during a 2 to 3 day power outage years ago at the lab where they were stored, the Health Department still believes they can use them. The Health Department intends to try to match the chemicals in the blood with the chemicals found in the environmental soil samples they took throughout the neighborhood.

### **What the data are likely to tell residents.**

The information collected won't provide useful conclusions for Love Canal families. In fact, because of the small size of the study and other factors, this effort is essentially a collection of information.

Since the New York State Department of Health did not begin to collect birth defect information until 1983, the birth defects that occurred prior to 1983 will not be included in the data base. The state cancer registry began in 1972 so cancers before that time will also be lost. These are important limitations of the study.

Death certificates list the cause of death not the disease(s) that led to the death. For example, if someone's heart gives out while undergoing treatment of kidney disease, the death certificate will probably say heart failure. The kidney problem will not be noted on the death certificate or included in the study.

The Love Canal Medical Fund Board members were very disappointed after hearing the description of the health study. This study will not give former residents vital health based information nor will it be useful to other communities faced with serious health risks due to chemical exposures. The Love Canal Medical Fund Board expressed our disappointment to Drs. Kim and Fitzgerald and asked them to make several changes to the study. They said they would review our concerns and meet with us again to discuss them. The Board plans to meet in 2000 with the Health Department to further discuss the study.

**Love Canal Medical Fund Board  
of Directors Members and Officers  
Serving in 1999**

Janice Alexander	Resident	
Joseph Dunmire	Resident	Treasurer
Lois Gibbs	Resident	Vice Chairwoman (elect)
Sheila Graziano, LLB	Expert	Secretary
JoAnn Hale	Resident	Vice Chairwoman
Luella Kenny	Resident	Chairwoman
Stephen Lester, MS	Expert	
Adeline Levine, PhD	Expert	
Joan Matty, RN, MS	Expert	
Pauline Pilipauskis	Expert	
Barbara Quimby	Resident	
Carol Segal, MD	Expert	
Virginia Troy, RN, MS	Expert	
Paul Zuccari	Resident	