

# LOVE CANAL MEDICAL FUND, INC.



30<sup>th</sup> Anniversary, August 1, 2008

# ANNUAL REPORT 2009

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### I. INTRODUCTION

This Board of Directors report for the Love Canal Medical Fund, Inc. (LCMF) is for the year ending December 31, 2009. The following two paragraphs describe the creation of the Love Canal Medical Trust Fund and the Love Canal Medical Fund, Inc.

#### **A. Creation of the Love Canal Medical Trust Fund:**

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. vs. Occidental Chemical Corporation et al. The settlement agreement called for the establishment of the Love Canal Medical Trust Fund (LCMTF) 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.

#### **B. 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" (LCMF) 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 the Court approve all expenditures. 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. BACKGROUND and ADMINISTRATION of the LOVE CANAL MEDICAL FUND

The Love Canal Medical Fund applied for and was granted tax exempt status under Section 501(c)(4) of the Internal Revenue Code in 1989. Form 990 – Return of Organization Exempt From Income Tax is filed with the Internal Revenue Service annually. A copy is available upon request.

LCMF received tax-exempt status from New York State sales tax in 1991. Payment of medical expenses from LCMF to beneficiaries is tax exempt.

#### **A. Board Members**

The New York State Supreme Court appointed the initial members of the Board of Directors. Additional Board members have been appointed by the Board and approved by the Court. The majority of the Board of Directors consists of one-time residents of Love Canal while others are experts in professions related to administration of the Fund. All Directors volunteer their services. A list of the Board of Directors who served in 2009 is included at the end of this report.

## **B. Medical Benefits Plan**

The Board of Directors of the Love Canal Medical Fund was directed by the Court to develop and submit to the court for approval, a Medical Benefits Plan containing a process for the distribution of benefits to the beneficiaries of the Love Canal Medical Trust Fund. In response, the Medical Benefits Plan was prepared first in 1987 and later updated in 1994, 1996, 1999, 2008 and 2009. Amendments were made to the plan that had time limits, some of which were renewed several times, such as medications and appliance coverage. Some amendments were allowed to expire. The Plan is not an insurance policy. Beneficiaries should not rely upon the Medical Benefits Plan as their primary or sole source for reimbursement of medical expenses. Nor should the Medical Benefits Plan be considered a substitute for health insurance.

The Medical Benefits Plan describes the conditions, provisions, exclusions, and limitations of the coverage provided by LCMF for medical expenses incurred by beneficiaries for medical conditions, which reasonably could be associated with exposure to toxic chemicals found at the Love Canal toxic waste site. The Plan also covers preventive and diagnostic procedures for early detection of medical conditions that could reasonably be associated with exposure to toxic chemicals. These medical conditions could have been present at the time of residency in Love Canal, or they may be any of the many medical conditions that may have developed since moving away from the area.

The Plan will pay up to a maximum of \$10,000 per beneficiary per year for covered medical expenses subject to a list of exclusions and limitations. Beneficiaries are directed to the Medical Benefits Plan Booklet for a list of these exclusions and limitations. Coverage provides for one annual routine physical examination per beneficiary per year.

## **C. Submission and Payment of Claims**

A procedure was established to review, approve, and pay claims. Claims are submitted on forms provided by the LCMF and found on the LCMF web site. Claims are received and processed by First Niagara Risk Management, Inc., a professional claims adjuster. The claims adjuster makes recommendations based on the Medical Benefits Plan. These claims are assigned a file number, so the identity of the claimant is not known to Board members. The processed claims are then sent to the LCMF Medical Benefits Claims Committee (Committee). Claims are reviewed by the Committee, which meets between Board meetings, to discuss and vote on each claim. The Committee's decisions are then given to First Niagara Risk Management, Inc. who responds to the beneficiaries and issues payment of approved claims. First Niagara Risk Management, Inc. may contact beneficiaries or that beneficiary's medical providers to clarify questions raised by the Committee to obtain additional information. In certain instances the Committee will refer a claim to the entire Board for its review and decision. When a claim is denied, the beneficiary is contacted by First Niagara Risk Management, Inc., and given the reason for the denial and a description of the appeals process. First Niagara Risk Management, Inc., has processed claims for the LCMF since February 1, 2009. Previously Albert F. Stager was the claims adjuster from the time the program was established.

#### **D. 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 vote on their own claims.

#### **E. Medical Appeals Board**

The Fund established a Medical Appeals Board in 1990. The purpose of the Medical Appeals Board is to review any claim appealed by a beneficiary that has been rejected for payment based on medical reasons. The Board decides on all policy issues. The Medical Appeals Board may also be contacted for expert opinion when required. Members of the Medical Appeals Board are not paid.

#### **F. Financial Matters**

Merrill Lynch manages the investments of the Love Canal Medical Fund, Inc. The funds of the Love Canal Medical Trust Fund are invested primarily in Certificates of Deposit, Mutual Funds and to a lesser degree in U.S. Government securities. All financial matters are approved by the Board of Directors and by the NY State Supreme Court. A statement describing the account status is sent by Merrill Lynch to the Treasurer and Chairman of the Board each month.

#### **G. Reporting to the New York State Supreme Court**

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. Judge Joseph D. Mintz reviews and approves the budget and expenditures.

### **III YEAR 2009 ACTIVITIES**

#### **A. Meetings**

In the year 2009, the Love Canal Medical Fund met in March, August and November, in Amherst, New York.

#### **B. Board of Directors**

Lois Gibbs, Dr. Carol Segal and Mike Zimmerman were re-elected to the Board in 2009.

#### **C. Benefits Paid**

The amount of benefits paid to beneficiaries in the year 2009 was \$58,721.04. The total amount of benefits paid from the inception of the Fund, including the year 2009, is \$1,119,265.68.

#### **D. Financial Statement**

Investment gain for the year 2009 was \$172,229.45. Total expenses, including beneficiary payments were \$104,106.67 resulting in a net gain of \$68,122.78. The total Fund balance at the end of the year was \$1,463,651.32.

Brown and Company, LLC completed an audit for the year 2008.

#### **E. Update of By-Laws**

There were no changes to the LCMF By-Laws in 2009.

## **F. Medical Benefits Plan**

The Medical Benefits Plan Committee completed their review and updating of the Medical Benefits Plan in August 2009. The Board at the August Board Meeting approved the reinstatement of reimbursement of up to \$250.00 per year per beneficiary for prescription medication expenses related to medical conditions that reasonably could be associated with exposure to toxic chemicals at Love Canal for the period beginning January 1, 2010 and ending December 31, 2011 (unless extended or modified by the Board of Directors). This benefit is subject to the existing \$100.00 deductible fee for medical benefits. A notice of this change was mailed to all beneficiaries for whom LCMF had an address in December 2009.

## **G. Outreach Activities**

- Efforts to encourage beneficiaries to contact LCMF continued in 2009.
  
- An annual letter (with enclosures) was mailed to all beneficiaries with known addresses in December. Included in that mailing were:
  - Telephone numbers of the Fund (716-773-6578) and a toll free number for Claims Adjuster, First Niagara Risk Management (1-800-899-3078).
  - A notice of Prescription Medication Reimbursement Benefit 1/1/2010 to 12/31/2011.
  - A copy of both the Annual Physical and Medical Claims forms.
  - A post card addressed to the Love Canal Medical Fund for beneficiaries to inform the Fund of an address, name change or to request additional claim forms. Nine post cards were returned during 2009.
  - Winter 2009 Bulletin – Health News and Benefits, Issue 23
  
- Beneficiaries can use the Love Canal web site ([www.lcmf.org](http://www.lcmf.org)) to download Annual Reports, Medical Benefits Plan, bulletins and claim forms. There is also a link to the LCMF e-mail address ([lcmfund@yahoo.com](mailto:lcmfund@yahoo.com)) which beneficiaries may use to notify the Fund of a change of address, request claim forms and other pertinent information.
  
- A telephone line with voice mail (716-773-6578) was put into service in 2001 for beneficiaries. This continues to be the most used method for reaching the Fund. The Administrator responded to 25 inquiries in 2009.
  
- In 2009 the LCMF attempted to update beneficiary information in the following ways:
  - Mailed 82 letters to beneficiaries with known addresses seeking missing information such as date of birth; social security number; and/or maiden name. There were 37 responses.
  - Utilized the [Ancestry.com](http://Ancestry.com) web site to determine the whereabouts of 192 “missing beneficiaries”. This resulted in positively identifying 40 beneficiaries who have died.
  - The Fund’s Administrator uses returned postcards and telephone inquiries as a means of updating the Beneficiary Database. This has proved to be a successful methodology.

## **H. General Board Activities**

- The Board of Directors approved limited reimbursement for prescription medication expenses related to medical conditions that reasonably could be associated with exposure to toxic chemicals at Love Canal for the period beginning January 1, 2010 and ending December 31, 2011 (unless extended or modified by the Board of Directors).
- All but one Board Member completed the HIPPA (Health Insurance Privacy and Portability Act) refresher-training program.
- The Board approved transferring its banking to First Niagara Bank from HSBC. Accordingly two new bank accounts were opened (one for LCMF Operating Expenses and the other for First Niagara Risk Management to make payments for approved medical expenses). The two HSBC accounts (previously used for the just mentioned purposes) were closed.
- Approved and implemented a formal **Record Retention and Destruction Policy and Procedure**.
- Approved and implemented a formal procedure for the Fund's Administrator to electronically transfer funds from its Merrill Lynch Cash Management Account to both First Niagara Bank accounts (LCMF Operating Account and First Niagara Risk Management' Medical Benefits Payment account).
- Approved and implemented the methodology to transfer sensitive Fund information via the Internet using a secure repository (Cyber-Ark) provided as a service by First Niagara Risk Management.
- Implemented a **Conflict of Interest Policy and Procedure** that requires all Board Members to annually disclose any business relationships they may have with the LCMF.
- Approved a review of the current LCMF web site with a focus on making it more user friendly.
- Adopted a **Whistleblower Policy and Procedure**, that provides any LCMF employee with clearly defined procedures to follow if they have any unresolved concerns with the LCMF operation.
- Voted on the following Board Member categories at the Annual Meeting:
  - Election of Directors for three-year terms.
  - Election of Officers for a one year term
  - Election of Committee Members for a one year term

**LOVE CANAL MEDICAL FUND  
BOARD OF DIRECTORS SERVING IN 2009**

Janice Alexander	Resident
Dr. Perry Davis	Resident
Beverly Docteur	Expert
Joseph Dunmire	Resident
Lois Gibbs	Resident
Sheila Graziano, Esq.	Expert
Janice Hastrup, PhD.	Expert
Luella Kenny	Resident
Robert J.Krul	Resident
Stephen U. Lester, MS	Expert
Barbara Quimby	Resident
Renee Retton	Resident
Carol Segal, MD	Expert
Michael Zimmerman	Resident

**LOVE CANAL MEDICAL FUND OFFICERS**

Luella Kenny	Chairperson
Lois Gibbs	Vice-Chairperson
Sheila Graziano	Secretary
Joseph Dunmire	Treasurer