



## Medical Claims Challenged

**W**e have taken off the gloves. On August 4, 2003, your association (JMRA) fired off a letter to Elaine L. Chao, United States Secretary of Labor, asking that an investigation into the Johns Manville retiree medical plans be initiated immediately. We said that JM has “engaged in a repeated pattern of reporting in its ERISA summary annual reports a downward trend in the company’s medical claims cost experience for over a decade, but has reported just the opposite in communications to retirees in apparent attempts to justify increased cost-shifting to retirees under the plans.”

The letter to Ms. Chao included a 12-page attachment which describes in detail the potential ERISA reporting and disclosure violations committed by Johns Manville. On the same day, we issued a media release to all the major media in the country with a copy of our letter to Ms. Chao. Initial reaction appears positive.

Also on August 4, we sent a letter to Warren Buffett, Chairman and CEO of Berkshire Hathaway, Inc. Johns Manville is a Berkshire Hathaway company. In our letter to Mr. Buffett, we

expressed our continuing frustration with JM in offering any explanation regarding the misleading and inconsistent expenditure numbers given to us. The letter to Mr. Buffett included our correspondence with Ms. Chao, the 12-page attachment, and our media release.

We will continue to move with this campaign. Much depends on the reaction of the Department of Labor, Mr. Buffett and Johns Manville. Copies of our letters and our media release are included in this special issue of your newsletter.

### Letter to Elaine L. Chao, Secretary of Labor

Dear Secretary Chao:

I am writing as President of the Johns Manville Retirees Association (“the Association”), a group of 2500 salaried retirees and widows, to ask that you investigate the retiree medical plans (numbers 506 and 541) for Johns Manville Corporation (Johns Manville) pursuant to your authority under Section 504 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §1134.

As extensively detailed in the attachment to this letter entitled “Analysis of Potential ERISA Reporting And Disclosure Violations Committed By The

*Johns Manville Corporation In Connection With Retiree Medical Plans 506 and 541,” the overall basis for this request is that Johns Manville has engaged in a repeated pattern of reporting in its ERISA Summary Annual Reports (SARS) a downward trend in the company’s medical claims cost experience for the plans in question for over a decade, but has reported just the opposite in communications to retirees in apparent attempts to justify increased cost-shifting to retirees under the plans. Then, in the most recent SAR, for 2001, it reported that \$42.4 million of health benefit claims were paid, whereas the 2001 form 5500 audited financial statement showed a health cost expenditure of only \$23 million.*

*I request that the results of your agency’s investigation be made available to the Association and, if warranted, that action be taken to refer this matter to the United States Department of Justice with a recommendation for prosecution of Johns Manville for willfully violating the reporting and disclosure requirements of Title I of ERISA and violating 18 U.S.C. §1027, by making false statements and knowingly concealing facts in connection with plans 506 and 541.*

*If such a referral to the United States Department of Justice is not warranted, I further request that your agency institute a civil action to enjoin any violation of*

## The News Release

DENVER, Colo., August 4, 2003 - Johns Manville Retirees Association President John W. Leasher announced today that on behalf of the Association he has filed a letter of complaint with U.S. Secretary of Labor, Elaine L. Chao, requesting an immediate investigation into whether Johns Manville Corporation, a Berkshire Hathaway Company, had falsified numerous financial reports required under federal pension law or had purposely misled its retirees as to whether the company's retiree health costs had increased dramatically.

Leasher said it appeared Johns Manville may have engaged in a campaign of deliberate deception in order to justify further health cost shifting to retirees when, according to the company's ERISA-required summary annual reports sent to all retirees, the company's retiree costs had stayed pretty much the same over the past decade. ERISA is the 1974 Employment Retirement Income Security Act, administered by the Department of Labor.

Among many examples, Leasher cited the 2001 summary annual reports for two Johns Manville retiree health plans that reported retiree health expenditures in excess of \$42 million while the full audited financial reports of the plans for that year only

showed expenditures slightly in excess of \$21 million.

Leasher said, "We are asking the Department of Labor not only to investigate this matter thoroughly but to consider referring it to the Department of Justice for criminal prosecution if the results of the investigation warrant it. It looks to us as if Johns Manville may have intentionally exaggerated its increases in retiree health costs in official reports required by federal law."

The Association's attorney Michael Gordon, a noted ERISA expert, commented that, "If this is so, then that's a crime." Gordon, while working as a congressional staff member in the 1970s, helped draft wording for the 1974 Act.

Leasher added, "Even if criminal prosecution is not warranted, the Department of Labor should initiate a civil enforcement action under ERISA to correct all the inaccurate reports and misleading communications to retirees and stop Johns Manville from repeating such violations in the future."

Leasher said he began monitoring the company's retiree medical reports in 2001 and has repeatedly requested clarification from the company on reporting inconsistencies. The company, according to Leasher, has never fully

*the reporting and disclosure requirements of ERISA, and/or ERISA's fiduciary requirements, that may have been committed by Johns Manville with respect to plans 506 and 541, including correcting any previously rendered inaccurate reports. We also ask for such other equitable relief as may be necessary to assure that Johns Manville reforms its internal procedures to assure that both accurate SARS and non-SAR communications to its retirees about medical cost experience under plans 506 and 541 are conveyed.*

*Your prompt attention to the foregoing is appreciated.*

*Sincerely,*

*John W. Leasher, President  
Johns Manville Retirees Assoc.*

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## Letter to Warren Buffett

*Dear Mr. Buffett,*

*We are tired of Johns Manville's obfuscation of what it pays for retiree health plans, in an unwarranted attempt to justify even more cost shifting to retirees. Therefore, we have taken action in the form of a letter of complaint to Secretary of Labor, Elaine L. Chao, with an attachment listing potential ERISA reporting and disclosure violations. This material has been released to the media and is enclosed here for your information.*

*We asked you in our May 22, 2003 letter to intercede in JM's announced plan to dramatically increase retiree health insurance premiums in 2004. Apparently, since you chose not to answer that letter, you agreed with JM's plan, even though you, too, may have been given inaccurate expenditure numbers. Taking a*

*softer tone at that time, we pointed out that retirees have not received an inflationary increase in their pensions since 1980, and simply cannot afford further erosion of their monthly checks through increased health premiums. We said we saw no economic justification for the staggering increases.*

*Our letter and the attachments to Secretary Chao codify that claim.*

*We intend to pursue this serious matter as necessary.*

*Since JM has been unwilling to communicate with us and offer any explanation regarding the misleading and inconsistent expenditure numbers given to us, we have not sent this information to Johns Manville. Asking JM for clarification is a fruitless endeavor. Obviously, the planned changes will allow JM to inflate its earnings and help meet cash flow targets that you may have established.*

*On a more positive note, we wish Berkshire Hathaway well with the recent acquisition of Clayton Homes.*

*Sincerely,*

*John W. Leasher, President  
Johns manville Retirees Assoc.*

### **Roy Hillmer**

It is with sadness that we tell you of the death of Roy Hillmer on June 8, 2003. Roy had been a member of your JM Retiree Association Board since 1994. He served as Treasurer from 1996 until 2001. Roy retired from Johns Manville in 1988 after a long career with the company. We will miss his presence on the board.

### **Write to Warren Buffett**

**Y**ou can help yourself and your fellow retirees by writing a personal letter to Warren Buffett pointing out the serious negative effect increased JM medical plan costs will have on your standard of living. The proposed increase to you, which takes effect in 2004, was outlined generally in a JM brochure you received earlier.

As you know, Mr. Buffett is chairman and CEO of Berkshire Hathaway, the large conglomerate which owns Johns Manville. The proposal to increase your monthly health care premium by three to five times the present rate certainly was not concocted without Mr. Buffett's express approval.

Make it a personal letter reflecting your individual situation. Write from your heart.

In addition to the date you write and your name and address, include your current age, the year you retired, and the number of years you worked for Johns Manville. Stress the amount of your gross monthly pension from JM, but don't include other income such as Social Security. Point out your

current monthly health plan deduction from your monthly pension and estimate what that cost will be in 2004.

Of course, your own thoughts on facing increased health costs in your senior years should be included but try to keep your letter to one page, and certainly no more than two pages.

Your letter should be addressed to Mr. Warren Buffett, Chairman, Berkshire Hathaway Inc., 1440 Kiewit Plaza, Omaha, NE 68131.

Please send a copy of your letter to Johns Manville Retiree Association, P. O. Box 3336, Littleton, CO 80161-3336.

Write today to Mr. Buffett, who is so admired in America's financial community.

### **Joe Manara**

Joe Manara, Manville, NJ, passed away June 12, 2003. Specific details are not available. Joe has been a Regional Representative for your JM Retiree Association since 1994 covering the Manville, NJ area. We will miss his good help in keeping the people in his area advised of association activities.

### **In Memory**

Bob Elder (Denver), Lorraine Bailey (Corona), Marvin Clumpus (Denver), Doris Douglass (Aurora), Gordon Fisher (San

Francisco) Anne Frazer (Green Valley, AZ)(2002), Harold Gypson (Holophane, Alameda, CA), Bob Heisler (Denver), William Henseler (Denver), George Johnson (Denver), Gene Leze (New Orleans Sales Office), Paul C. Mottern (Aurora), Bill Padlo (Denver), Kenneth A. Roberts (Denver), Sherrill "Van" VanNest (Denver)

Received from Waukegan QCC: John Cole, Vincent Fratricks, Charles Hutchison, W. C. Inman, Jr., William A. Johnson Ernest Keske, George Parker Arthur Pierce, Charles Pitts

Paulino Vega, Dorothy Wendt