

# USAir

## Long-Term Disability Enrollment Sheet

JOYCE L. ACKERMAN  
556 SHADOWLAWN AVE  
DAYTON OH 45419

Employee Number: [REDACTED]  
Social Security Number: [REDACTED]

The annual enrollment period for coverage under the Long-Term Disability Plan provided by Fortis Benefits Insurance Company is June 5 through June 30, 1995. Long-Term Disability (LTD) insurance provides you with tax-free replacement income if you are unable to work due to a covered disability that results from injury, illness, or pregnancy. Details about the plan and the enrollment process are included in the enclosed booklet. Costs for the employee-funded voluntary plan are based on your age and the options that you select. The approximate contributions per pay period for an employee of your age are listed below.

To enroll for or to change your LTD coverage, you should call the USAirLine at (800) 872-4780 between June 5 and June 30, 1995. The automated enrollment system is available 24 hours-a-day, beginning at 8 a.m. on June 5. You must enroll between these dates - no new enrollments or increases in coverage will be accepted past June 30, 1995.

If you already carry LTD coverage and do not wish to make any changes to your coverage, you do not need to participate in this enrollment. Your coverage will continue without change.

Any coverage elections made during this enrollment will become effective August 1, 1995, provided you are an active employee at that time.

If you have any questions about the LTD plan, or your options under it, please call Fortis Benefits - the plan administrator - at (800) 776-6808.

### Your current coverage under the LTD Plan:

You have elected a 180-day Qualifying Period and have insured 30 percent of your regular earnings.

### Your estimated contributions per pay period for LTD coverage

Rates based on your age as of August 1, 1995: 33 years; and on your pay rate as of April 30, 1995

Percentage of Replacement Income	Qualifying Periods	
	90-Day	180-Day
60% of Regular Earnings	\$ 16.04 ✓	\$ 10.62
50% of Regular Earnings	\$ 13.37 ✓	\$ 8.85
40% of Regular Earnings	\$ 10.70 ✓	\$ 7.09
30% of Regular Earnings	\$ 8.02	\$ 5.31

The Long-Term Disability Plan provided by Fortis Benefits Insurance Company is available only to full-time USAir ground personnel. Part-time employees, pilots, flight attendants, and participants of the management incentive plan are not eligible to participate. Only employees who are eligible for coverage should participate in this enrollment.

The cost of this mailing was paid by Fortis Benefits Insurance Company. ✓

(PLAN ADMINISTRATOR)

November 9, 1995

Wyatt Owens  
National Group Protection, Inc.  
2307 Commonwealth Drive  
Charlottesville, VA 22901

Re: USAir - ERISA

Dear Wyatt:

I have spoken to several of our attorneys in order to gain as much information as possible in regards to the ERISA issue. I would like to briefly review the Department of Labor (DOL) Regulation 2610.3-1(j) that discusses what group insurance arrangements do not constitute employee welfare benefit plans if there is minimal employer involvement:

1. No contributions are made by the employer.
2. Participation is completely voluntary.
3. The employer receives no consideration in the form of cash for administrative services rendered in connection with payroll deductions.

These three criteria are definitely being met. The last criteria that must be met states that the sole function of the employer with respect to the program are, without endorsing the program to permit the insurer to publicize the program to the employees, to collect payroll deductions and remit them to the insurer.

It is our opinion that this criteria is not being met. Our rationale is based on USAir's involvement in the plan design, open enrollment materials and the articles written by USAir for employee newsletter.

✓ Fortis Benefits' position on whether or not a plan is subject to ERISA only comes into play when we are involved in litigation. As I mentioned to you, ERISA cases must be argued in Federal Court which is a much friendlier environment as opposed to State Court. Our counsel will argue on almost all cases that ERISA applies in an attempt to move the case out of State Court. This is the situation that occurred in the Thomas Meaker case in North Carolina where both USAir and Fortis were named as defendants. Counsel was selected to represent both USAir and Fortis. The strategy employed, and agreed to by attorneys from Fortis and USAir, was that the LTD plan was an employee welfare plan and subject to ERISA. In this case, the court agreed with this argument. Keep in mind that if the insurer fails to argue this point

*fortis*

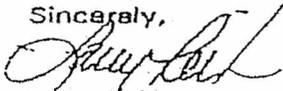
at all, then the insurer is automatically placing themselves in a precarious financial position due to the damage awards that can occur at the State level. This is the reason why we assume all cases are subject to ERISA in our claims processing so that we can argue this position in court. Not every court is going to rule the same way and in some cases it may be determined that the USAir is not subject to ERISA. ERISA, like many other laws and regulations, contains a lot of vague language that can be interpreted and argued either way. It all depends on the situation and the stance the party wants to take.

It is up to USAir to decide whether or not they feel the LTD plan is an employee welfare benefit plan in their eyes. We take the position that ERISA applies to protect our legal interests in the case of litigation. It is not our position to suggest or force any employer to comply with ERISA based on our opinion.

Wyatt, I hope this explains our position on this issue. I realize that USAir thinks we should be in concert on this which would require USAir to comply with the DOL regulations which include the issuance of a Summary Plan Description. The timing of all this as it relates to the Certificate Booklet mailing is somewhat critical. We feel the Certificate Booklets should be mailed now. Our vendor is ready to mail them and due to the length of time that has elapsed since the new plan was put into place the Booklets need to be mailed immediately without any further delays. If USAir decides that the plan is subject to ERISA, then Summary Plan Descriptions can be supplied at a later date.

Please call me to discuss this in more detail.

Sincerely,



Larry Leibson  
Group Account Executive

cc: Ken Bowen

# IMPORTANT CHANGES IN SPD REQUIREMENTS



U.S. Department of Labor  
Pension and Welfare Benefits  
Administration

✓ **SPD FILING ELIMINATED:** ERISA pension and welfare plans no longer need to file copies of summary plan descriptions (SPDs), summaries of material modifications (SMMs), or updated SPDs with the Department of Labor. Note: Plan administrators still must furnish these documents to participants and beneficiaries.

← Fortis Inc.  
Plan Adm.

**GROUP HEALTH PLAN SPDs:** Group health plans must include in their SPDs:

- ✓ ● Information about the role of any "health insurance issuer" (e.g., insurance company or HMO), in the plan's operation, including whether benefits are guaranteed by the issuer and what administrative services it provides.
- ✓ ● A notice that federal law generally prohibits plans and health insurance issuers from limiting hospital stays for childbirth to less than 48 hours for normal deliveries and 96 hours for cesarean sections.
- ✓ ● An updated "Statement of ERISA Rights" indicating which Department of Labor office to contact for information and assistance.

Group health plans must also notify participants and beneficiaries of "material reductions in covered services

or benefits" (e.g., important benefit reductions or cost increases for participants). This notice must be given by the plan within 60 days of adoption, or within 90 days of adoption if given as part of system of communication, such as union newsletters or company publications, distributed at regular intervals of not more than 90 days. **Note:** SMMs or updated SPDs giving notice of other plan changes must be furnished within 210 days after the end of the plan year.

**ELECTRONIC DISCLOSURE:** The Department of Labor has set forth "safe harbor" conditions under which electronic media (e.g., e-mail) may be used to furnish group health plan SPDs, SMMs, and updated SPDs to participants. See 62 Fed. Reg. 16,985 (April 8, 1997) (to be codified at 29 CFR 2520.104b-1(c)).

For further information call 1-800-998-7542, visit our website at <http://www.dol.gov/dol/pwba> or write us at

Pension and Welfare Benefits  
Administration  
U.S. Department of Labor  
Customer Service Representative  
Rm. N-5625  
200 Constitution Avenue, N.W.  
Washington, DC 20210

NOTE:

September 1997

U.S AIRWAYS

February 17, 1998

Joyce Ackerman  
556 Shadowlawn Ave  
Dayton, OH 45419

Dear Mrs. Ackerman:

I am responding to your February 13, 1998 letter requesting information regarding enrollment in the Long Term Disability (LTD) Product sponsored by Fortis Benefits Insurance Company.

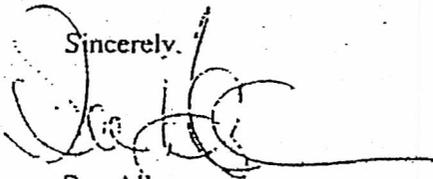
Your enrollment in LTD began August 1, 1989 with an elected benefit of \$500.00 per month and a 180 day waiting period. During your enrollment, you made changes in your percentages and waiting periods as follows:

August 1, 1993	180 days	30%
August 1, 1995	90 days	60%

US Airways does not consider this voluntary program as one of its' ERISA Plans. The program, sponsored by Fortis Benefits Insurance Company, was a voluntary LTD insurance program for which employees were eligible to enroll and pay premiums through the convenience of payroll deduction. Any legal proceeding in regards to this insurance is dictated by the insurance company. This LTD program was a fully insured product. The offering of LTD insurance through Fortis Benefits ended July 31, 1996, therefore, enrollment also ended on that date.

Mrs. Ackerman, I hope this letter addresses your concerns. If you require information regarding your US Airways benefit plan, please call the Human Resources National Service Center at 800-872-4780.

Sincerely,



Dee Allen  
Specialist Health/Welfare

U·S AIRWAYS

**FEDERAL EXPRESS**

September 5, 2000

Mark A. Anthony, Esquire  
7970 Clio Road  
Centerville, Ohio 45459

RE: Joyce Ackerman, et al. v. Fortis Insurance Co.  
Subpoena for Joyce Ackerman

Dear Mr. Anthony:

In response to the Subpoena Duces Tecum issued on June 27, 2000, enclosed are the personnel, medical, payroll and information on the plan with Fortis that Ms. Ackerman selected. The plan as offered to employees was fully funded and not an ERISA plan. It was offered to employees who then enrolled through an automatic enrollment process. More information will be found in the booklet entitled "USAir Long Term Disability Plan Offered to Employees of USAir, Inc." (90 days) The booklet was effective 8/95. Copy enclosed and Ms. Ackerman's file.

Once you have had the opportunity to review these files, please advise if you have any further questions. Thank you for your patience in this matter.

Sincerely,



Rita M. Evans  
Manager Legal Affairs

Enclosures

THE WHITE HOUSE

WASHINGTON

December 4, 2007

Ms. Joyce L. Ackerman  
556 Shadowlawn Avenue  
Dayton, Ohio 45419

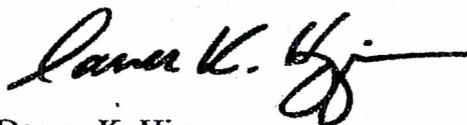
Dear Ms. Ackerman:

On behalf of President Bush, thank you for your correspondence.

We are sending your inquiry to the Department of Labor. This agency has the expertise to address your concerns. They will respond directly to you, as promptly as possible.

The President sends his best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren K. Hipp". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Darren K. Hipp  
Special Assistant to the President  
and Director of Presidential Correspondence

*Due to mail screening procedures, we have  
only recently received your letter. We appreciate  
your patience in awaiting a response.*



December 17, 2007

Joyce L. Ackerman  
556 Shadowlawn Ave.  
Dayton, Ohio 45419

Dear Ms. Ackerman:

The letter dated November 2, 2007, from you and Gregory T. Ackerman addressed to President George W. Bush has been referred to this office for response. Our office provides legal advice and representation to the Department of Labor on matters concerning the Employee Retirement Income Security Act of 1974. Based on your letter and enclosures, it appears that you have filed a petition for rehearing for a writ of certiorari with the Supreme Court of the United States and you have asked for assistance in your pursuit of this legal action.

We are unable to comply with your request. The Solicitor General of the United States has authority over the Federal government's participation in matters pending before the Supreme Court. We understand that the Solicitor General does not participate in petitions for writ of certiorari unless the Court specifically requests the government's views.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy D. Hauser", written over a horizontal line.

Timothy D. Hauser  
Associate Solicitor  
Plan Benefits Security Division



Consumer Response Center

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

December 13, 2007

Gregory T. and Joyce L. Ackerman  
556 Shadowlawn Avenue  
Dayton, OH 45419

Re: FTC Ref. No. 12223492

Dear Mr. and Mrs. Ackerman:

Your correspondence to Chairman Deborah Platt Majoras regarding jurisdictional redress from Federal agencies was referred to the Consumer Response Center for reply.

The Federal Trade Commission acts in the public interest to prevent unfair and deceptive practices in the marketplace. Letters such as yours help us monitor activities and identify problem areas.

The Commission does not resolve individual complaints. However, the information you have provided concerning the practices of the company will be considered to determine what, if any, action should be taken by the Federal Trade Commission in the public interest.

Again, thank you for bringing your experience to our attention.

Sincerely yours,

Consumer Response Center