May 20, 2011

**BY CERTIFIED MAIL; RETURN RECEIPT REQUESTED**

Brenda Ketner

Retirement Plan Administrator

Roger Williams Medical Center

825 Chalkstone Avenue

Providence, RI 02908

Re: Ann D\_\_\_\_, Soc. Sec. No. XXX-XX-XXXX

Terminated vested participant in Roger Williams General Hospital Employees’ Retirement Plan

Dear Ms. Ketner:

Please be advised that Ann D\_\_\_\_ has requested the assistance of the New England Pension Assistance Project with respect to the issue of payment of pension benefits due her pursuant to the Roger Williams General Hospital Employees’ Retirement Plan. This plan was terminated by Roger Williams General Hospital in 1986 as a “standard termination”. **This letter is a claim for benefits due her pursuant to this terminated plan.**

**Statement of Facts**

Ann D\_\_\_\_ worked for Roger Williams Medical Center from May of 1976 through the summer of 2010. From 1976 until August 1984, she worked part-time, 35 hours bi-weekly. See Exhibit 1. On October 22, 1984, she became a full-time employee, working as a secretary in the Ambulatory Surgery department. See Exhibit 2. She remained as a full time employee thereafter.

The Roger Williams General Hospital Employees’ Retirement Plan (hereinafter, “the Plan”), a defined benefit pension plan, was terminated in December 31, 1986, as a standard termination. As part of the termination, plan participants were either paid lump sums or had annuities purchased through Continental Assurance Company (CNA). Ms. D\_\_\_\_\_ did not receive a lump sum nor was an annuity purchased for her.

**Argument**

Article 4.02 of the Plan provides that an employee hired on or after January 1, 1973, shall become a member of the Plan on his or her employment date. It further defines an “employee” at Articles 3.05 and 3.051 as a full-time employee working at least 30 hours a week during twelve months of the year, or 40 hours per week for more than five months a year. Ms. D\_\_\_\_\_\_, as noted above, began working full-time in October of 1984, and thus satisfied the requirements for plan membership from that point in time until termination of the plan on December 31, 1986.

ERISA and the Internal Revenue Code outline the procedures for the standard termination of a single- employer plan. Sections 4041 and 4044 require payment of all benefit liabilities before a defined benefit plan can terminate. The PBGC’s certification of a final distribution of assets does not affect the plan sponsor’s obligation under Section 4022 of ERISA to pay all nonforfeitable benefits. The plan sponsor of a terminated plan remains liable for the payment of benefits if a proper distribution has not been made.

Internal Revenue Code Section 411(d)(3) provides that all benefits accrued must become nonforfeitable upon the termination of a pension plan, regardless of the participant’s place on the plan’s normal vesting schedule. This means that all non-vested participants who are employed by the plan sponsor on the plan’s termination date become vested in the portion of the benefit accrued to the date of the termination and should receive a distribution reflecting a portion of their benefit. Section 411(d)(3)’s nonforfeitable rights cover not only nonvested participants who are employed on the date of plan termination, as well as those recently laid off or discharged.

As the evidence included with this letter and outlined above shows, Ms. D\_\_\_\_\_ was entitled to, but did not receive any benefit from the Roger Williams General Hospital Employees’ Retirement Plan when it terminated. We hereby request that she be paid this benefit immediately, along with interest accrued since the plan termination date.

Please direct your written response to this claim to me at:

New England Pension Assistance Project, Gerontology Institute,

Univ. of Mass. Boston

100 Morrissey Blvd.

Boston, MA 02125.

Thank you for your attention to this matter.

Sincerely,

Jeanne M. Medeiros, Esq.

Managing Attorney

Enclosures

cc: Ann D\_\_\_\_