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**From:** [Michelle Bondy](#)

**Sent:** Tuesday, December 07, 2010 4:03 PM

**Subject:** Nortel - update

**December 7, 2010**

Greetings,

As you know, Nortel provided medical, dental and life insurance benefits to pensioners and those in receipt of LTD payments, income payments to disabled employees and the survivors of retirees in certain situations, as well as medical, dental and life insurance benefits to active employees, through the Health and Welfare Trust ("HWT").

In September, the Court appointed Monitor sought approval for a proposed allocation method to distribute the remaining funds in the HWT. Under the Monitor's proposal, payments from the HWT were to be made to those in receipt of the following benefits: Pensioner Life; LTD Life; LTD Income; LTD Optional Life Benefit; SIBs; and to those who had already commenced receiving STB payments. Those who were entitled to such payments will have previously received an "Allocation Statement" which estimated the amount to which they were entitled under the Monitor's proposal. That proposal was approved by order of the Court on November 9, 2010.

Unfortunately, a number of individuals who are beneficiaries of the HWT, and who opposed the Monitor's proposal, have determined to appeal the November 9, 2010, Decision. In order to appeal, these individuals must first seek leave from the Court of Appeal for Ontario. Without leave the appeal will not be heard. We have been attempting to work out a time frame for the hearing of the leave to appeal motion with the legal counsel for these individuals. It appears that it might be possible for the motion to be heard before the end of this year, although when the actual decision may be released is entirely within the hands of the Court of Appeal.

In addition, there are a number of other issues arising as a result of the delay caused by the opposition to the Monitor's proposed distribution and their subsequent appeal from that decision. These issues include the requirement to determine the final amount of funding in the HWT and a final determination of those to whom a distribution from the HWT should be made. All of these factors, the delay caused by the opposition to the Monitor's proposal, the leave to appeal motion and the appeal, if it occurs, will all take time and likely will not be resolved until into the new year.

Accordingly, the CAW-Canada, the Former Employees' Representatives, the LTD Beneficiaries' Representative have asked that the Monitor bring a motion to provide an interim payment to those in receipt of LTD income, as well as Survivor Transition Benefits and Survivor Income Benefits. This interim payment is to assist during the period between the termination of benefit payments on December 31, 2010, and the final distribution of the HWT funds, sometime in the new year. The Monitor has agreed to prepare and bring such a motion before the Court.

**The Monitor is recommending that the interim distribution be 10% of the payment which would have been received by each LTD, SIB, STB recipient for the income portion of the payment they would receive under the Monitor's proposed distribution. The proposed interim distribution will result in a lump sum amount representing 3 months of payments for the majority of those receiving payment. Some will receive less than a three month payment. The majority of those who will receive less than 3 months payment are those whose benefits are coming to an end in accordance with the terms of the benefit plans, i.e., SIB recipients who are almost at the end of their 5 year payment period.**

**The Monitor is of the view that the proposed interim distribution is prudent and conservative and will not prejudice other beneficiaries. The reason for the lower level of payment is in the event that those who are seeking leave to appeal are successful, and their subsequent appeal is also successful, all of the issues relating to the distribution of the remaining funds in the HWT will be subject to future litigation. As such, the Monitor wants to ensure that the funds in the HWT are not too far depleted in case the Court later determines that the LTD, SIB and STB recipients are not entitled to the amounts under its original proposal.**

**The materials in support of the interim distribution have been filed with the Court and the motion is currently scheduled for December 15, 2010. I do not have any information as to whether any party, including those who opposed the Monitor's distribution proposal, will oppose the interim distribution payment, although I do not see why they would oppose it as they too are beneficiaries of such payments and their benefits will also cease on December 31, 2010.**

**I will update you when further information becomes available.**

**In solidarity,**

**Barry E. Wadsworth  
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CAW-Canada Legal Department**

*From the desk of ...*

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