

THE

MACM

MONITOR

Fall 2018



A MESSAGE FROM THE PRESIDENT & CHIEF EXECUTIVE OFFICER

AN UPDATE:

FALL AND RENEWAL SEASON AT MACM

By Robert M. Jones

Fall began on September 22 and has a certain feeling. Cooler weather may or may not show up between now and January. This time of the year is busy with sports and holidays. At MACM, we are in the middle of our *renewal season*. We renew almost 3,000 policies between now and January 1; however, we want to stop and tell you what has been happening at your insurance company.

2019 Rate Decrease – The MACM Board of Directors approved a recommendation from Management to reduce physician base rates by 5.9 percent for 2019, for those insureds with limits of coverage \$5 million/\$7 million and below. The Board of Directors made this decision after reviewing a rate study presented by our independent professional actuary. In addition, our financial results are on target to end the year

with another modest gain. This means a partial premium refund is likely again in December. A final decision as to the premium refund will be made at the December Board of Directors meeting. It is always our goal to keep your premiums as low as possible, while allowing MACM to remain financially sound.

Equity Account Change – In light of the increase in values of MACM Equity Accounts, you have asked that we consider allowing you to receive payment of your Equity Account funds over time instead of in one lump sum. We listened to you! The Board of Directors has revised the Equity Account By-Law provisions to allow a retiring MACM physician to receive payment of his or her Equity Account funds over three years. More information on this change is available on Page 4 of this newsletter.

Reinsurance – In our communication with MACM insureds, we do not often mention MACM's reinsurance. Having just returned from meeting with MACM's reinsurance representatives in London, I want you to know that, while MACM is itself financially sound, the several entities that reinsure MACM's risk are the very best in the reinsurance market. Although MACM rarely needs to look to our reinsurers for payment, they are there to support us. During our meetings, the reinsurers are always impressed with MACM's operations and financial stability. Rest assured that solid reinsurance is in place.

A. M. Best Rating – Each year, the independent insurance rating agency A. M. Best reviews MACM's financial records and interviews our Management in order to assign a financial strength

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HOUSTON'S HANDOFFS

CASE STUDY

NOTICE OF CLAIM NOT NECESSARILY NOTICE OF COURTROOM APPEARANCE

By Gerry Ann Houston, MD, Medical Director

The odds are that at some point in your career you will be served with a **Notice of Claim** alleging that a patient suffered injury when you did not meet the standard of care. Your immediate vision is that of sitting in a courtroom facing a judge and jury. But wait, hold on, there is a very high likelihood that this will not proceed to a trial and you can erase this nightmare from your mind. Looking at lawsuits that MACM has handled, over 90 percent did NOT go to trial and, of those that did go to trial, there was a defense verdict in over 90 percent. Claims can go away for the following reasons:

Voluntary or Involuntary Dismissal

The claim or suit may just go away. This is the case in over 50 percent of claims. In a small percentage, the suit may just die from lack of plaintiff activity. Sometimes the plaintiff may file for a voluntary dismissal if he feels the claim does not look as promising as he first thought. The defense may file a motion for summary judgment asking the court to dismiss the case if, for instance, the plaintiff failed to retain a qualified expert.

A lawsuit was filed against a hospitalist for prescribing Levaquin to a 47-year-old man whose records indicated that he was allergic to that drug. The patient subsequently developed toxic epidermal necrolysis. After it was determined that the hospitalist was not the physician who prescribed the Levaquin, the lawsuit was voluntarily dismissed by the plaintiff.

Settlement

When a medical error has been made and there is a potential for a significant amount of damages to be paid, a settlement may be appropriate. This may be done directly with the plaintiff or may involve attorneys on both sides agreeing to an acceptable payment. Settling early is generally quicker and more cost effective than going to trial.

A physical medicine physician did a lumbar nerve radiofrequency ablation on a 74-year-old lady. After the procedure, the patient complained of numbness of her left leg and while being assisted off the table by two nurses, she was dropped



Looking at lawsuits that MACM has handled, less than 10 percent went to trial and, of those, there was a defense verdict in over 90 percent.

onto the floor. The patient required a surgical procedure to repair her left femur fracture. The lawsuit was settled for a reasonable amount.

Mediation

Mediation is another mechanism that keeps a claim from going to trial. An impartial third party helps both sides come to a mutually acceptable resolution. There is no requirement that the parties have to reach a settlement; if they do not, the case may continue to be litigated.

An orthopedic spine surgeon performed a cervical discectomy on a 48-year-old male. A year later when he was continuing to have pain, it was found to have been done at the incorrect cervical level. Mediation was done and concluded with a lump sum payment of a reasonable amount to the plaintiff.

Arbitration Agreements

Many medical clinics are having patients sign arbitration

agreements in which the patient waives the right to sue the physician and, instead, agrees to submit any dispute to arbitration. An arbitration is similar to a trial with both sides arguing, witnesses giving expert testimony, and the physician testifying. The difference is that there is no jury; the judge renders the decision that is binding.

A 60-year-old female filed a lawsuit against a general surgeon for complications following a ventral hernia repair. A binding arbitration was held out of state, and many months later the final ruling was in favor of the general surgeon.

If you are served with a **Notice of Claim**, don't immediately picture yourself in front of a judge and jury. Call your MACM Claims Representative, turn things over to him or her, and benefit from many years of claims experience. MACM will never settle a case without your written consent. However, MACM will always give weight to the insured's concerns about settling or trying a case. And more than likely, you will be in the more than 90 percent who do not go to trial.

YOU SPOKE AND WE LISTENED!

OPTION ADDED FOR EQUITY ACCOUNT DISTRIBUTION

In 1991, the MACM Board of Directors created the MACM Equity Account to reward MACM's loyal Members. At death, disability, or retirement, a Member is entitled to receive the funds of his/her Equity Account* and free Reporting Endorsement also known as "tail" coverage. Since their formation in 1991, Equity Accounts have only been payable in one lump sum. However, due to the increasing size of Equity Accounts and the fact that proceeds are taxed as ordinary income, the MACM Board of Directors recently amended the By-Laws to also permit installment payments of Equity Account funds for retired and disabled Members.

When you retire or if you become disabled, MACM will first send you a Certification of Retirement, which serves as your official declaration of retirement or disability. The Certifica-

tion of Retirement further contains an acknowledgment that re-entry into the practice of medicine will result in forfeiture of all Equity Account funds and nullification of free tail coverage. When MACM receives the signed and notarized Certification of Retirement, we will issue your tail coverage at no charge.

Equity Account funds are payable 180 days after your retirement date and upon MACM's verification that you have not returned to the practice of medicine. Approximately 180 days after your retirement or disability, MACM will send you a final Certification of Retirement and a Certification of Installment Election. The final Certification of Retirement serves as confirmation that you have not re-entered the practice of medicine during the previous six months and remain completely retired. If you would like to receive the balance of your Equity Account in three equal installment payments over a consecutive three-year period, you will also sign the Certification of Installment Election, have it notarized, and return it to MACM.

Once the Certification of Installment Election has been signed, notarized, and submitted to MACM, it is irrevocable. Equity Accounts do not earn interest and cannot be encum-



bered, transferred, or assigned. In the event that a Member opts for the installment option and dies during the three-year period, the remaining balance less any previously paid installments will be paid to the Member's personal representative or heirs at law in a lump sum.

If you would rather receive your Equity Account in a lump sum, there is no need to complete the Certification of Installment Election.

If you are considering retirement, we encourage you to speak to a tax professional to determine whether the lump sum or the installment payment option would be most advantageous to you. If you have questions about your Equity Account or the installment payment option, please contact MACM.

**The termination, cancellation, and/or non-renewal of a Member's insurance policy, regardless of cause, shall operate to terminate that Member's membership in the Company and a Member's Equity Account. Upon the termination of a Member's Equity Account for reasons other than Retirement, Disability, or Death, a Member's Equity Account shall be forfeited and the balance shall be reallocated among the Equity Accounts of the remaining Members of the Company.*

Q + A

DO YOU KNOW ENOUGH ABOUT YOUR MACM EQUITY ACCOUNT?



The Equity Account was created as a way to recognize physician members that were committed and faithful to the long-term viability of Medical Assurance Company of Mississippi. Now, almost 30 years later, the Equity Account remains one of many benefits of coverage by MACM and one of our strongest tools for retention of existing members and recruiting prospects. Through the Equity Account, we can reward the practice of good medicine and show appreciation for your time invested in MACM.

Following are some of the most common questions we are asked about the MACM Equity Account. If you have a question, you may find the answer you are looking for in the information that follows. If not, please give us a call, and we will be glad to provide additional information.

What is the MACM Equity Account?

The Equity Account for each physician member is a *paper account* only and serves as a contingent right to receive payment of your interest in the surplus of MACM. The account does not earn interest and cannot be encumbered,

transferred, or assigned to anyone else. While this account is held in your name, you cannot withdraw from it or use it for payment of premium.

When am I eligible for a MACM Equity Account?

Once a physician has been insured by MACM for a full year, that physician is eligible for the establishment of an Equity Account. After that, allocations are directed annually to the paper account of those physician members who pay a full year's premium.

How is the allocation amount calculated each year?

Each year in March, a change occurs in the Equity Accounts of qualified MACM members. The net income or loss of the Company, as the case may be, is divided equally and allocated to the equity accounts of the physician members.

In recent years, MACM has had strong financial results each year. What happens if MACM has a financial loss?

Should MACM face a financial loss at year-end, the loss of the Company would be divided equally among the physician member's accounts, and a negative allocation would be taken from the account. While future allocations cannot be guaranteed, there has only been one year in MACM's history with a financial loss. For that year, a negative allocation was taken from the Equity Accounts of eligible physician members.

Does the account grow throughout the year? Interest earned each quarter?

No. In March each year, there is a one-time allocation to the Equity Account of each physician member. The amount in your Equity Account does not change throughout the year. It changes only at the time of the next year's allocation.

How much is paid out each year to physician insureds?

On average, MACM disburses at least \$6 million to those insureds qualifying for a distribution of the account through retirement from the practice of medicine, permanent disability, or death.

Is the Equity Account taxable?

The Equity Account distribution is taxable as ordinary income and will be reported to the IRS on a 1099-Misc form in the "Other Income" box. This means it should be treated as ordinary income.

Do I have to get the payment in a lump sum or can I get installment payments?

This past June, your MACM Board Members responded to requests for options in the distribution of the Equity Account balances and approved an additional disbursement method over a three-year period if so chosen by the physician member.

When will I receive my Equity Account distribution?

Equity accounts are available for distribution only upon termination of membership in the Company due to death, permanent disability, or retirement, as defined in the Company's Bylaws. Termination of your membership for any other reason results in the forfeiture of your account.

Can a physician member retire from practice but still do some work "on the side"?

As defined by MACM By-Laws, the term "Retirement" means the complete and permanent withdrawal from the practice of medicine.

What happens if I leave Mississippi or join another group that is not insured by MACM?

Termination of your membership for any reason other than those outlined in the Company By-Laws – death, permanent disability, or retirement – results in the forfeiture of your account.

Where can I find more information about the MACM Equity Account?

Your current Equity Account balance is always available on the **Member Log In** section of the MACM website at www.macm.net.

IMPORTANT INFORMATION FROM UNDERWRITING

DO YOU SEE PATIENTS IN A LONG-TERM CARE FACILITY?

Many of our members serve as medical directors or see patients in long-term care facilities such as nursing homes or hospices. If you fall into this category, make sure you notify the MACM Underwriting Department. Coverage is typically provided with no additional premium, as long as the facility carries adequate professional liability insurance.

Mississippi law doesn't require nursing homes to carry any liability insurance, and while most do have coverage in place, some do not. Those that don't believe that a lack of insurance equals a liability shield. In other words, the theory is that since they're uninsured or self-insured, the facility won't be a target

for plaintiffs' lawyers. Putting aside the wisdom of this tactic, the reality is that if you're working for an organization like this, you could very well end up being the target, and there will be no or very little money from the facility to back you.

Even for those nursing homes that are insured, it's important to find out whether they're adequately insured. We've encountered situations where the nursing home assures the doctor that professional liability coverage is in place but the insurance has low limits or contains policy exclusions that make it largely worthless as a means of protection.



Are you anticipating changes in 2019?

As the 2018 renewal season comes to a close, we are already gearing up to assist our insureds in 2019.

The MACM Underwriting Department is responsible for the management and daily upkeep of our insureds' policies. We understand changes to your practice happen throughout the year. When these changes occur, please remember to notify us. For example, these changes can include an address change, home or business, or new practice lo-

cation; an email change; adding or deleting procedures; or changes in your advanced practitioner staff (Nurse Practitioners, Physician Assistants, CRNA, etc.).

Don't hesitate to call or email us with any changes to your policy. In addition, you can go online to the Member Log In section of the MACM website to notify us of changes.

When it comes to getting our insureds credentialed properly for their clinical practice, no one cares more about this than MACM's Underwriting Department. Call us when you have questions or needs that we can help you handle.

WHAT'S IN A NAME?

A LOT TO THE MACM MARKETING DEPARTMENT

Do you have students and residents in your clinic to work with and shadow you and your staff? If so, please send MACM Marketing an email or give us a call. Let us know a name and contact information, and we will add the student or resident to our database for future insureds and prospects. We will stay in contact with the student or resident throughout the years of medical education and training so that when the time comes to make a decision about professional liability coverage, MACM is the preferred choice.

MACM Contact Information

info@macm.net
(800) 325-4172
www.macm.net

YOUR MACM CLAIMS DEPARTMENT

MACM BOARD OF DIRECTORS NAMES



TODD SAVELL

as Vice President of Claims

After 25 years working in the Claims Department of Medical Assurance Company of Mississippi, Todd Savell knows a lot of physicians and attorneys in Mississippi. These relationships and years of experience are what will prove beneficial to insureds as he begins his tenure as Vice President of Claims.

On August 1, Savell was named Vice President of Claims by the MACM Board of Directors. For insureds, it will be business as usual seeing no change in the philosophy of or interaction with the staff of the Claims Department.

On August 1, the MACM Board of Directors named Todd as Vice President of Claims.

“The greatest responsibility of the Claims staff is to thoroughly investigate and accurately evaluate each case,” Savell said. “Our job is to ensure we provide all resources, expertise, and knowledge to insureds so that we can decide together on the direction of each case. This has always been our attitude towards claims management and will continue to be.”

Prior to coming to MACM, Savell worked with Liberty Mutual Insurance, a large commercial carrier, where he specialized in corporate accounts involving general liability and workers’ compensation. During his time there, a co-worker left Liberty Mutual for a position at the Mississippi Hospital Association. This co-worker mentioned Savell’s name to Chuck Dunn, MACM’s former Vice President of Claims, who needed someone young and with experience to complete the Claims staff. On October 1, 1993, Savell began his career at MACM as a Claims Representative.

Continued on page 10

AVAILABLE TO ASSIST INSURED

KNOW

CLAIMS DEPARTMENT COMPETENT

HOW TO REACH YOUR CLAIMS REPRESENTATIVE



North Mississippi

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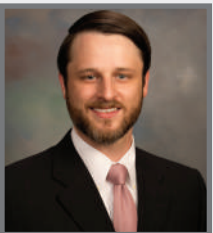
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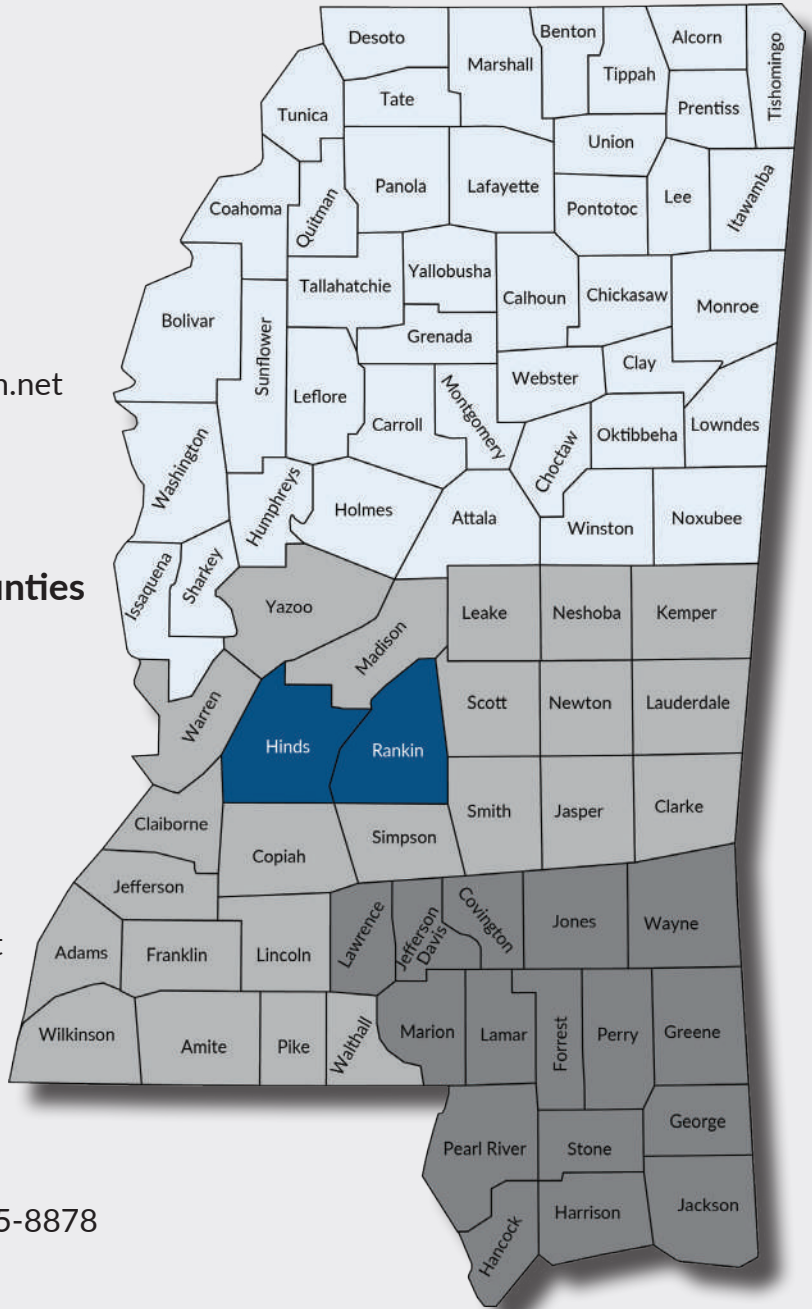
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WLEDGEABLE

KEITH WESTBROOK

becomes Claims Manager

On August 1, 2018, Keith Westbrook was promoted to Claims Manager. Since joining MACM in 1996, Westbrook has worked with hundreds of physicians and clinics through the years representing thousands of cases. As Claims Manager, he will assist with the oversight, management, and operations of the Claims Department.

Todd Savell continued from Page 8

Going from a large commercial carrier to a more specialized insurance provider was a dramatic change of scenery. During his time at Liberty Mutual, the work was fast paced with constant phone calls, interruptions, and a need to open and close claims files quickly and often. Pressure to meet a production quota was part of the job description. Coming to MACM, the responsibilities are more focused on providing outstanding service to the insured and obtaining the desired outcome for the physician.

“At MACM, we have time to develop relationships with our insured physicians,” Savell said. “Due to the high exposure of a claim, our work is more about the thorough investigation and evaluation of each case. Instead of concentrating on how quickly we can resolve a claim, we are going to do what is indicated by the events and what is best for the insured.”

Today, 25 years later, Savell and the Claims staff’s overall objective remains the same, but now they have more technology and better tools at their disposal – in the office and in the courtroom – to determine how cases are managed and disposed of.

“We will continue to do the things that our insureds expect and that have brought us success through the years,” Savell said. “We will continue to stress a close relationship with our insureds – to be with them through the litigation process and reassure them. When an insured calls, we will be responsive and helpful. We are going to be intentional in meeting the needs of our physicians.”

Another contributing factor to MACM’s success when resolving claims is the work of the company’s defense counsel. Similar to the specialty area of a physician, the MACM defense counsel are outside litigators dedicated in the area of medical malpractice defense with years of experience defending physicians.

“MACM will continue to hire the best attorneys. Our defense counsel know that if we send them a case, they should prepare to take it to trial and that we are going to be focused on prevailing at trial,” Savell said.

“We will be consistent in the approach of defending physicians that did not commit negligence and use every resource necessary to win. We will hire the best defense counsel and experts to benefit our insureds. We are willing to defend our physicians in any venue.”

THOROUGHLY
INVESTIGATE
ACCURATELY
EVALUATE

Over the years, MACM and its defense counsel have a high success rate in defense of medical malpractice claims, hopefully, earning the respect of the plaintiff’s bar. Because of the Company’s reputation for defending claims against insured physicians and clinics, plaintiff attorneys know what to expect and are less apt to pursue frivolous claims.

“Our defense counsel are very committed and have dedicated their career to defending physicians. MACM has been successful because of the outstanding efforts of our defense counsel,” Savell said.

Understanding not every claim should be resolved through the trial process, the Claims staff will continue to protect physicians by realizing that, at times, circumstances dictate that cases be resolved through settlement.

“If the right thing to do is not to expose our insured to litigation, that’s what we will do. That is another way we can protect our insureds,” Savell said.

“Our goal is to remove the worry and concern that a physician fears when facing a med-mal claim. Their job is to focus on the practice of medicine. Our job is to utilize our experience, knowledge, and skill to effectively guide and counsel our insureds through the litigation process.”

Robert S. Caldwell, MD, Award
recognizing excellence in patient care, documentation, and communication
in a senior level resident at the
University of Mississippi Medical Center

Congratulations to the this year's award recipient!

Madison H. Williams, MD

Hematology / Oncology

Past Recipients

- | | |
|---|---|
| 1982 Jack Foster, MD – Cardiology | 2000 Ford Dye, MD – Otolaryngology |
| 1983 Martha J. Brewer, MD – Ob-Gyn | 2001 Chet Shermer, MD – Emergency Medicine |
| 1984 Sam J. Denney, Jr., MD – Pediatrics | 2002 Demondes Haynes, MD – Pulmonology |
| 1985 William H. Coltharp, MD – Cardiothoracic Surgery | 2003 Kimberly W. Crowder, MD – Ophthalmology |
| 1986 Bobby L. Graham, Jr., MD – Medical Oncology | 2004 Kentrell Liddell, MD – Family Medicine |
| 1987 Sam Newell, MD – Neurology | 2005 Christopher M. Charles, MD – Pediatrics |
| 1988 Marc Aiken, MD – Orthopaedic Surgery | 2006 Matt Runnels, MD – Gastroenterology |
| 1989 W. Richard Rushing, MD – Ob-Gyn | 2007 David L. Spencer, Jr., MD – Urology |
| 1990 Charles G. Pigott, MD – General Surgery | 2008 Lillian Joy Houston, MD – Psychiatry |
| 1991 R. Glenn Herrington, MD – Ophthalmology | 2009 Shane Michael Sims, MD – Ob-Gyn |
| 1992 Mark G. Hausmann, MD – General Surgery | 2010 Lee Murray, MD – Neurology |
| 1993 Gary L. Smith, MD – Anesthesiology | 2011 Leslie Mason, MD – Ob-Gyn |
| 1994 Michael R. McMullan, MD – Cardiology | 2012 Christopher M. Bean, MD – Urology |
| 1995 Damea B. Benton, MD – Pediatrics | 2013 Victor Copeland, MD – Ophthalmology |
| 1996 Jeffrey D. Noblin, MD – Orthopedic Surgery | 2014 Christina G. Marks, MD – Radiology |
| 1997 Scott E. Harrison, MD – Otolaryngology | 2015 James A. Moss, Jr., MD – Orthopaedic Surgery |
| 1998 David Stuart Emerson, MD – Family Medicine | 2016 Rishi A. Roy, MD – General Surgery |
| 1999 Timothy B. Murray, MD – General Surgery | 2017 Michael T. Cosulich, MD – Dermatology |

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President's Letter from cover

rating. This year, A.M. Best renewed our "A" rating, finding that MACM's balance sheet and operating performance are strong, enterprise risk management is appropriate, and outlook is stable.

Disaster Recovery Plan – While we would like to think that fire, tornado, or other disaster might never strike MACM's building, we know we must be prepared for such event. Fortunately, all documents at MACM are digitalized, and the Company works in a fully paperless environment. All electronic data is backed-up and stored offsite on a regular schedule. Regardless, this year we reviewed and updated our Disaster Recovery Plan so that we can be up and serving you as soon as possible in the event disaster strikes.

25-Year Employees – Not only does MACM have a commitment to our insureds, we are committed to our employees. This year, we are recognizing Underwriting Manager Amy Matthews and Vice President of Claims Todd Savell. Both joined MACM in 1993 and have worked for our insureds for 25 years! We currently have six employees with 25 years or more of tenure and 17 who have worked at MACM for at least 15 years. We realize our very experienced and capable staff is our most valuable asset. Thus, it is important that we maintain the best environment for them to work and provide services to you.

So, why does MACM exist? It is simple, MACM exists to protect and serve our insured physicians and healthcare providers. We work hard at underwriting, risk management, investments, information technology, claims handling, and all related services, with the goal of being certain that you know "your company" will be there for you when you need us. It is gratifying when we receive an email like this from a physician after a hard fought trial victory.

"I wanted to let you know how much I appreciated the support and excellent attorneys who helped to get me through this case.

This has been an awful experience for me emotionally as I am sure you can understand. To have an intellectually excellent team as well as understanding and emotionally supportive is a blessing I cannot tell you how much I appreciate.

The continued comments of "you can do this, you will do great." really helped. Please reiterate to MACM my thanks and appreciation of their support."

Thank you for your loyalty to Medical Assurance Company of Mississippi.