



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

ISSUED: March 22, 1994

IN REPLY PLEASE
REFER TO OUR FILE

Z-00223698

**DOCUMENT
FOLDER**

STEPHEN R PELGHER ESQ
DUQUENSE LIGHT COMPANY
ONE OXFORD CENTRE
301 GRANT STREET
PITTSBURGH PA 15279

DAVID P BOYCE
VS
DUQUESNE LIGHT COMPANY

ETG

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Michael A. Nemeč. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265**, within twenty (20) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within twenty (20) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs. cc: ALJ NEMEC, OFFICE OF ALJ, LAW BUREAU, OSA, PIO, OTS, BCS, OUR FILE, NEW FILE, CHAIRMAN, COMMISSIONERS

DAVID P BOYCE
5608 ELLSWORTH
AVENUE SEVEN APT 7
PITTSBURGH PA 15232

Very truly yours,

Allison K. Turner
Chief Administrative Law Judge

JEP:las
Encs.
Certified Mail
Receipt Requested

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT
FOLDER

David P. Boyce

v.

Duquesne Light Company

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:
:
:
:

Z-00223698

INITIAL DECISION

DOCKETED
MAR 24 1994

Before
Michael A. Nemec
Administrative Law Judge

History of the Proceeding

In his complaint filed November 29, 1993, Complainant David P. Boyce stated that for three years the apartment above his was responsible for high summer electric bills. This resulted from the compressor for the apartment's air conditioner being connected to his meter. His requests for assistance from this Commission and Duquesne Light cover about 4 carefully handwritten pages which I will not attempt to summarize here.

Duquesne filed a timely answer and a motion to dismiss for failure to join an indispensable party, namely Mr. Boyce's landlord. The motion was not ruled on but reserved for this Initial Decision. The initial hearing was held on February 7, 1994, in Pittsburgh. The resulting record consists of a 35 page transcript, 3 Complainant exhibits and 3 Duquesne Light Company

exhibits. The record is summarized in the findings of fact that follow. No briefs were filed.

Findings of Fact

1. Complainant David P. Boyce resides at 5608 Ellsworth Avenue, Apartment 7, Pittsburgh, PA 15232, where he receives electric utility service from Duquesne Light Company. Tr. 4-5.

2. Mr. Boyce has resided in the same apartment since December 31, 1990. Tr. 5.

3. Three apartments, including that rented to Mr. Boyce, are served by the same air conditioning unit. Tr. 5-6.

4. The electrical service for the compressor for the air conditioning unit is connected to the meter that registers electric service to Mr. Boyce's apartment. Tr. 5-7; Duquesne Exhibit 3.

5. The thermostat for controlling the air conditioner is located in an apartment other than the one rented by Mr. Boyce. Tr. 5-6.

6. Mr. Boyce has been unsuccessful in obtaining the cooperation of other tenants in paying in full their respective shares of the electric bill. Tr. 7-8; Complainant Exhibits 1, 2, 3.

7. Mr. Boyce has also been unsuccessful in obtaining the cooperation of his landlord, Mr. Harold E. Haffner, 2723 Beechwood Blvd., Pittsburgh, PA 15217, in either helping with the electric bill or in rewiring the electrical system to take the compressor off his meter. Tr. 10-11; Complainant Exhibits 1, 2, 3.

8. Mr. Boyce's sole source of income is Supplemental Security Income in the amount of \$612 per month. He also receives food stamps in a value of about \$63. Tr. 13, 17.

9. Mr. Boyce's monthly expenses include rent of \$350 (which includes heat); telephone of about \$20; cable tv of about \$30; a monthly bus pass of \$40; food expense is covered by food stamps. Tr. 13-17.

10. Mr. Boyce is a full-time student at the University of Pittsburgh where he has a double major in media communications and political science; he is required by his classes to have access to both a telephone and cable tv. Tr. 15.

11. As of the hearing, the balance on Mr. Boyce's account for electric service was \$556.98. His budget amount was \$74 per month and Duquesne was willing to accept a payment plan of the budget plus \$5 per month on the arrearage. Tr. 22-23; Duquesne Exhibit 1.

12. Duquesne's account records confirm Mr. Boyce's testimony regarding high cooling season bills. Tr. 24-25; Duquesne Exhibit 2.

Discussion

Mr. Boyce has considerable reason to be upset about his electric bill, but it is difficult to understand why he has directed his efforts at Duquesne Light in attempting to improve the situation. Duquesne is not the owner of the building in which he resides and is not the person with whom he has a lease. Clearly the terms of the lease, whether written or oral, govern how the bill for electric service is to be paid by the tenants in the three apartments served by the air conditioning unit.

Prior to the hearing, Duquesne properly raised the issue of joinder of an indispensable party. However, I conclude that the presence of the property owner, Mr. Harold Haffner, is not necessary to adjudicate the issues raised by Mr. Boyce in his complaint against Duquesne. In essence, Mr. Boyce alleges that Duquesne failed to rewire the internal wiring of the apartment building with the result that he has been overbilled. Whether or not a Duquesne employee ever told Mr. Boyce that Duquesne could or would rewire is really beside the point. Duquesne has no authority from this Commission or under the Public Utility Code to rewire internal wiring of a privately owned building. The

internal wiring and the allocation of expense in making any modifications and in splitting-up the resulting electric bill is a matter for Mr. Boyce, the other tenants and Mr. Haffner to determine; neither Duquesne Light nor I have any authority to do so.

Another issue arises here as result of amendments to the Public Utility Code by Act 54 of 1993 which became effective on August 31, 1993. Section 1529.1 of the Public Utility Code as amended by Act 54, 66 Pa. C.S.A. §1529.1, places responsibility for non-payment of utility bills on the owner of a residential building containing more than one dwelling unit which are not individually metered. As a result, although Mr. Boyce is the ratepayer of record for the meter that records usage for his account, under the facts established here, Duquesne can also look to Mr. Haffner for payment. This new fact of life and law should encourage Mr. Haffner to finally act to either split the electric service or to otherwise develop a more equitable sharing of the payment of the resulting electric bill.

In future cases of this type, it would be appropriate for Duquesne to specifically move for joinder of the owner of the property citing the amendments of Act 54 as authority. In the present case, Mr. Boyce has indicated a desire to attempt to correct the situation with Mr. Haffner on his own. He should be aware that the very next section of Act 54, specifically Section

1531, prohibits retaliatory action by the owner of affected property for a 6-month period. Section 1531 of the Public Utility Code, 66 Pa.C.S.A. §1531.

Finally, Duquesne has agreed to a payment plan requiring payment of the budget amount plus \$5 per month on the accrued arrearage. This very minimal amount demonstrates Duquesne's acknowledgment that Mr. Boyce has acted in good faith consistently in attempting to deal with the high bill problem.

Conclusions of Law

1. This Commission has jurisdiction over the parties to and subject matter of this matter.
2. Complainant David R. Boyce has the burden of proof under Section 332(a) of the Public Utility Code, 66 Pa.C.S.A. §332(a), which he has carried in part.

ORDER

In consideration of the foregoing, it is ordered:

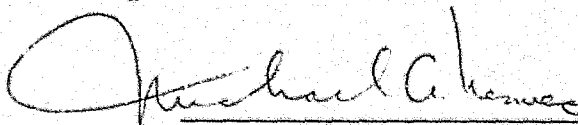
1. That the complaint of David P. Boyce against Duquesne Light Company, docketed at Z-00223698, is sustained in part by entry of a payment schedule and by noting the potential financial responsibility of the owner of the building in which Mr. Boyce resides.

2. That Complainant David P. Boyce commence paying the budget amount for electric service each and every month when due plus the amount of \$5 each and every month until the accrued arrearage is satisfied.

3. That in the event Mr. Boyce fails to comply with the payment schedule set forth above, Duquesne may suspend or terminate service in accordance with the regulations of this Commission and the provisions of the Pennsylvania Public Utility Code.

4. That in the event Mr. Boyce fails to comply with the payment plan and Duquesne then elects to proceed with suspension or termination of service, Duquesne will provide all required notice(s) to the owner of the property and the other affected tenants as well as to Mr. Boyce.

Date: March 11, 1994


MICHAEL A. NEMEC
Administrative Law Judge

Act 294

Case Identification: Z-00223698; David P. Boyce v. Duquesne Light Company

Initial Decision By: ALJ Michael A. Nemeo

Deadline for Return to OSA: April 5, 1994

This decision has not been reviewed by OSA.

* * * * *

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I want full Commission review of this decision.

Commissioner

Date

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David M. Rolko, Jr
Commissioner

4-5-94
Date

DOCUMENT
FOLDER

ROCKETED
APR 15 1994

Act 294

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I want full Commission review of this decision.

Commissioner

Date

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X Joseph P. ...
Commissioner

4/1/94
Date

Act 294

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Commissioner

Date

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X
Thomas M. Ziem

Commissioner

3-29-94

Date

RECEIVED

MAR 30 1994

OFFICE OF SPECIAL ASSISTANTS

Act 294

Case Identification: Z-00223698; David P. Boyce v.
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Initial Decision By: ALJ Michael A. Nemec

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I want full Commission review of this decision.

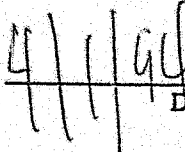
Commissioner

Date

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Commissioner



Date

Act 294

Case Identification:

E-00223698; David P. Boyce v.
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Initial Decision By:

ALJ Michael A. Nemeo

Deadline for Return to OSA:

April 5, 1994

This decision has not been reviewed by OSA.

* * * * *

I want full Commission review of this decision.

x John Hanger
Commissioner

4-5-94
Date

I do not want full Commission review of this decision.

Commissioner

Date

(DA)

Submitted: 13-APR-1994 23:09

Started: 13-APR-1994 23:10

Queue: CL_1 on LPSCL1

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Exception of _

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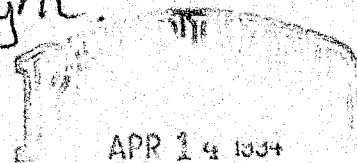
Entry: 484

Begin

10 Replacement letters corrected
and signed for case # Z-00223698,
David P Boyce v. Duquesne Light.

**DOCUMENT
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4/14/94

Dear Mr./Madam Secretary:

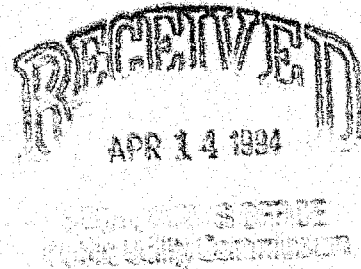
After Fed-Exing 10 Bound 'Exception' petitions
4/13/94 I remembered that I had not signed the letters
to you, within. Then I noticed several syntax & grammatical
errors, so I reworked the 10 copies of your letters, signed
them all this time, to send as the official copies of record.

Normally I don't tape-bind volumes, I have them spiral-
bound, but I was nearing the Fed-X deadline after working on
the preparation of the volumes all day and tape-binding was
faster. But they are more difficult to tear apart, replace text
and rebind, as I found last night for my copies. Please excuse, David Boyce

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

April 12, 1994

Secretary of the Public Utilities Commission
Room B-18, North Office Building,
North Street and Commonwealth Avenue,
Harrisburg, Pa. 17105-3265



Dear Mr./Madam Secretary:

It is my sincere and ardent hope that the date of mailing - to file for this 'EXCEPTION OF RELIEF' for DAVID P. BOYCE, both RESPONDENT and COMPLAINANT in regard to *David P. Boyce v. Duquesne Light*, file # Z-00223698 - Wednesday the 13th of April, will not prove the demonic superstition to be true. For I have tried my level best to comply with the complete letter *and Spirit of the Law*, ever since this ordeal began - three years ago. And I do mean *ordeal*, almost as in, by fire - it has been pure, unadulterated, HELL.

Paradoxically though, all this *heat*, has been over an air-conditioning unit. My nerves are truly, frazzled - as I have been under treatment for clinical depression and extreme anxiety at the *University of Pittsburgh Medical Center's, Western Psychiatric Clinic* for a bipolar disorder (manic depression), for ironically as long as the problem with the three-apartment air conditioning unit - hooked to my electric meter, has been going on. Every summer when the heat has gone soaring up, so has my electric bill - astronomically.

Where my electric normally has always been otherwise, in the \$20 to \$35 range per month, or about \$180 to \$315 for nine months, the bill for the three to four "summer months," is an additional \$600, or more. And my apartment is the tiniest, a two-room

apartment in the basement, where it is normally cooler and I don't even need that much air conditioning; the two other apartments above me are much larger - and the largest, #1, a multi-level apartment that has the *only thermostat* to control the air conditioner, has also been the most transient. Five or six different groups of people have lived there over the three years; some of whom, every year, *run out at the end of the summer* - leaving me, stuck with the bill.

So every year, not only do I have to attend weekly psycho-therapy sessions, while on Social Security Disability, at \$612 a month (which isn't that much to exist on); but I also attend the University of Pittsburgh, full-time, trying to learn a new profession, maintaining an average 3.25 gpa - which has not been that easy I might add, given my medical problem and the attendant, poor concentration, memory retention. But *then* I have had to deal also with this high-priced, high electric, air conditioning madness, the whole time - along with the rest. And now, on top of all that, my prime source of school money, the Office of Vocational Rehabilitation (OVR), just had its (my), **semester tuition and books, budget, slashed - by nearly 50 per cent** - due to state and federal cut-backs in funding education. So much for re-training the work force to become, "productive citizens" again. That's what I get after working for 25 years at heavy construction and insulation. Fortunately however, I earned enough sometimes where my taxes were more in a week, than many people gross. But that was then, and this - *mess* - is now.

But hold the phone, we're not over quite yet. Please find enclosed another development concerning my not-so-hot, medical situation. As you will see, depression and anxiety - exacerbated by the death of my mother four years ago - was compounded after her sister, my aunt and last living relative, died on the first day of Spring Break, last year. And all of this has helped to literally destroy any appetite that I may have had, left. I spent *that* week, watching, as my aunt, and the last vestiges of the memories of a happier, youthful, love-filled life - were buried along with her.

And all the while, I have carried this *HELL* - of a problem with the air conditioner and the damned Frankenstein electric bill that it created - along with all of the above.

Now do you see why, it is my sincere and ardent hope, that the date of this mailing - Wednesday the 13th - will not become some demonic, bad omen; ending up with an albatross of an electric nightmare - that is not even of my own doing - hanging around my neck, just because I have been doing the best that I can, with what mind that I still, have left. With mid-terms and Spring Break just over - with them the first anniversary of my aunt's death - its unsettling memories, finals to be reading for, term papers to write, the news that next term's budget will not even cover tuition and books, let alone anything else needed for school, and the fact that I cannot eat - am I to be punished and tormented further still, by inadvertently missing your, deadline?

I ask only that I may be allowed to pay what I can, "in good faith" afford - as one the income of whom, is a few thousand dollars below the poverty line; and that I be allowed the respite of falling in arrearage and the privilege of applying, as in the past, for LIHEAP 1, and LIHEAP 2 - if necessary.

I throw myself at the mercy of God, on the mercy of your court - and rest my case. And I hope that I may also - at long, last - "rest in peace."

Sincerely,



David P. Boyce

**Commonwealth of Pennsylvania
Pennsylvania Public Utilities Commission
P.O. Box 3265
Harrisburg, PA 17105-3265**

**DOCUMENT
FOLDER**

David P. Boyce v. Duquesne Light

DOCKETED
APR 25 1994

Case # Z-00223698

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

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apartment in the basement, where its normally cooler and I don't even need that much air conditioning; the two other apartments above me are much larger - and the largest, #1, a multi-level apartment that has the *only thermostat* to control the air conditioner, has also been the most transient. Five or six different groups of people over the three years, who have also every year, *ran out at the end of the summer* - leaving me, stuck with the bill.

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I throw myself at the mercy of God, on the mercy of your court - and rest my case. And I hope that I may also - at long, last - "rest in peace."

Sincerely,

David P. Boyce

Attn: Dr. Anthony Pietropaoli,

Chief Medical Resident:

**Presbyterian University
Hospital**

**200 Lothrop Street
Pittsburgh, Pa. 15213**

**From
David Paul Boyce**

David P. Boyce
5608 Ellsworth Ave. #7
Pittsburgh, Pa 15232
(412) 362-8362

February 24 - 28, 1994

Presbyterian University Hospital
University of Pittsburgh Medical Center
Dr. Anthony Pietropaoli, Chief Medical Resident,
200 Lothrop Street
Pittsburgh, PA 15213-3306
(412) 647-3420

Dear Dr. Pietropaoli:

Writing to you directly I believe, is the most efficacious way of lodging a complaint against a second party at *Presby* for failing to handle my prescription order for *Ensure Plus*, issued by Dr. Mary Korytkowski, who works both the Endocrinology & Metabolism and the Diabetes Centers. She however, is not only very competent but seems most responsible and personable, as well.

By way of introduction, please let me say that I am currently a second-term junior who hovers *around* an *average* 3.25 gpa., at the University of Pittsburgh; but for three years now I have been under treatment for chronic depression at the *Western Psychiatric Clinic*. So, to me - a 3.75 gpa., would be more in line as I would like to do post-graduate work; but given the circumstances I am told, my current standing is fine.

The bulk of this letter will now be written after you were so gracious as to have returned my phone call earlier today, 2/24/94. And although I was able to vocally convey the comprehensive gist of my current medical situation during our relatively brief 10-minute phone call (which for me to have accomplished is quite unusual); per our conversation, I

remarked that I can normally articulate much more precisely by written word, and to paraphrase you said: "sometimes when it's in black and white the message can have a greater effect." And therefore, I continue the letter.

To be succinct: I believe Dr. Ihsan Salloum, my psychiatrist, and Dr. Amy Jones Barlock, as therapist at the clinic have done, and continue to do, the best in psycho-pharmacological and psycho-support therapy care, respectively. However, as you must be well aware - it can be a long and arduous process. And since the physiological and psychological realms are so inextricably intertwined and co-dependent, and my on-going feelings of emaciation in each area are so pervasive, I feel some sort of additional treatment (e.g., human growth hormone) could be of help to some extent. And especially, it is imperative that I maintain my current, sole source of nutrition - *Ensure Plus*.

If it were not for that liquid "Ambrosia," I should now have long ago physically expired; because as I mentioned to you, and as I told Dr. Korytkowski - and the other doctor as well - for the last nine months *Ensure Plus* has been for all intents and purposes the only food I have been able to consume. For the last month-and-a-half, to ingest any solid food (to speak of) has been nearly impossible - purely because I have, gradually, over the last two years lost virtually - all appetite for *anything*, really. As I mentioned to Dr. Korytkowski, I have eaten about one sandwich in the last month, and otherwise have 'managed to munch a little white-cheddar coated popcorn,' for it is so light and fluffy - as if it were air, practically. Not to mention that sometimes it is the only way that I can manage to stay awake while reading my homework assignments, for I am continually fatigued and nodding off. Also, for some strange reason, because I tried a chocolate-chip cookie (which I normally never eat) over the Christmas holidays - in the evenings now, usually near what

is normally "bed time" (or, *whenever* because of the homework) - I *find* that I can manage to 'munch' a couple of cookies with my *Ensure Plus*.¹

But I cannot afford \$35.00 @ case or, \$280.00 a month - which is the approximate cost of my minimum daily caloric requirement. So, since the endocrinology & metabolism unit performed an examination on me, replete with all the applicable blood work - save checking for perhaps, leukemia (from which my maternal grandmother died), which I forgot to mention, but phoned in the next work-day morning. And after checking all of my medical records - Dr. Korytkowski okayed my request for the (not normally) "required" - *Ensure Plus* - "prescription." For I have tried to explain that if someone would write the prescription, I could perhaps go to the Medical Center pharmacy and get my necessary liquid sustenance through them. According to my letter from *Hill Burton*, they are supposed to help me with prescriptions. Therefore, I do not see why one of my doctors cannot write a prescription for the *Ensure Plus*. When I first asked Dr. Korytkowski's staff to relay (per official protocol) the findings to Dr. Salloum, they deferred them to the other doctor; and as stated, he failed to prescribe the *Ensure Plus* (against Dr. Korytkowski's request), nor did he phone Dr. Salloum.

¹For the last six months *Ross Laboratories*, through their regional manager, has been supplying me with all the *Ensure Plus* that I have had available. I have been drinking a six-pack a day at 355 calories @ can, or 2,130 calories per day. That comes to a case every four days, or about eight cases a month - and I drank a couple more cases than that a month, just *barely* exceeding my caloric need, when they had it to spare. Before that, I was getting the *Ensure Plus* from the *Greater Pittsburgh Food Bank* who, as now *Ross*, can no longer supply me - gratis. At almost \$35.00 a case and living on Social Security Disability - for me to buy the product is (without saying), cost prohibitive, *unrealistic*. However, as I correctly "guesstimated," according to Doctor Korytkowski, for a person of my age and at my activity level - going full time to school - between 2,000 and 2,500 calories per day, is what my body *and mind*, require.

And this is whence complaint of inattention by the second party comes: Dr. Korytkowski requested through her nurses and/or receptionist that the other doctor handle the prescription, since he was the originally assigned doctor of record for my examination at endocrinology & metabolism. He suggested however that he had seen me only once, and that I make an appointment with my *Falk Clinic* doctor, whom he knew I had seen only twice - since my former doctor there, Joseph Conigliario, had left - go through the whole examination process again - and have *her* write the prescription.

When I told to you this on the phone that day (2/24), Dr. Pietropaoli - as Presbyterian Chief Medical Resident - you suggested that I call or write (or since I had already started writing you and since we had spoken), indicated - which I found to be so gracious - that you could forward this letter to Dr. Alan Robinson, who is, I believe was said, department head of Endocrinology & Metabolism, and that maybe he could get it straightened out.

Having finished this letter to you, Dr. Pietropaoli, my hope is getting mobilized - else, I will be relegated to resume (what is tantamount to begging) at the various charity organizations (*and by this up-date for limited dissemination, 3/16/94, have already begun again to do so*) - as I had to do earlier months in the past, before help from the Food Bank. For after a while, a person starts to feel a bit degraded - people stare at you as if you were some sort of vermin, or so it would seem. And you want just to jump up and say: "Hey look, I had good jobs, I worked heavy construction and insulation for 25 years and was fortunate enough sometimes to make enough money that I paid more in taxes per week than many people gross. And I am battling this dysfunction - depression - and whatever else medically that is wrong - *while going to school and trying to learn a new career.*" But normally one cannot just jump up and shout that - you just have to stuff it - instead of telling *them* to.

Dr. Pietropaoli, it was decent of you to call today (2/24), and for Dr. Korytkowski to take time, trouble, and care as *she* did the other day - not to mention the *immense effort* that my good doctors, Salloum and Jones Barlock at the clinic have put forth for me the last three years. I am proud to be a *Pitt* student and of the well-deserved national reputation that our *University Medical Center* enjoys - as does the school in great part, because of it. So, I will be remiss not to mention the fine schools, medical and other graduate programs; but that will have to wait for another day, another letter - and another purpose. Thank you.

Sincerely,

David Paul Boyce

Please see following page

Doctor's Contact Numbers:

Barlock, Amy Jones	383-1261
Korytkowski, Mary	647-8601 648-3160
Pietropaoli, Anthony	647-3420
Robinson, Alan	648-9760
Salloum, Ihsan	383-1261

Patient's Contact & I.D. #s

Boyce, David P.

362-8362

5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232

PUHAMB

S.S. # 232-74-7698

Patient Card #

20031581

07/19/94

Agency Numbers

Hill Burton:

Third Party

Attn.: Ms. Julie Kleemann 647-5624
Supervisor, Financial Interviewing,
University Center, Pittsburgh
200 Lothrop Street
2nd Floor
Pittsburgh, Pa. 15213

Hunger Services Network, Allegheny Co.

Third Party

Attn.: Robinson, David, Prgm Dr., 361-2501
Hot Line 361-3321

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

March 29, 1994

Falk Clinic
Endocrinology & Metabolism Center
(Floor 1B)
3601 Fifth Avenue
Pittsburgh, Pa 15213
Attn: Dr. Mary Korytkowski

Dear Dr. Korytkowski:

For your convenience please find enclosed letters between various doctors and agencies concerning my current need for the liquid food, *Ensure Plus* - with which you are quite familiar. My hope is of course, to at last secure a reliable, steadily funded source of the product in sufficient quantities to meet the requirements of my daily caloric need which you established during my examination that you conducted at the Endocrinology and Metabolism Center at Falk Clinic in February, 1994. At that time and of course still, the daily caloric requirement for my age, sex, and activity level while maintaining a full schedule of classes at the University of Pittsburgh, remains between 2,000 and 2,500 calories per day. To that affect - per your affirmation as a specialist - Dr. Salloum my psychiatrist of three years has written a prescription for *Ensure Plus* to meet the proper nutritional criteria for my needs. And therefore, in line with those guidelines, as I have been for the past nine months, I am trying to maintain my daily regimen of one six-pack of *Ensure Plus* @ 355 calories per can or, 2,130 calories per day -which comes to one case every four days, or approximately eight cases per month.

Thank you very much for your help and concern in this matter and if anyone calls needing additional information regarding my physiological situation and nutritional needs; I should be most grateful for any additional advice and assistance that you may find convenient, given your busy schedule, to render.

Sincerely,

David Paul Boyce



University of Pittsburgh
Medical Center

Western Psychiatric Institute and Clinic

3811 O'Hara Street
Pittsburgh, PA 15213-2503

March 11, 1994

To Whom It May Concern:

Mr. David Boyce reports severe loss of appetite and difficulty consuming solid food secondary to severe anxiety and depressive disorders. His nutritional status would greatly benefit from nutritional supplements such as Ensure Plus.

Please let me know if I could be of any further assistance.

Sincerely,

Ihsan M. Salloum, M.D., M.P.H.
Assistant Professor of Psychiatry
Medical Director, Center for Psychiatric
and Chemical Dependency Services

IMS/tl



University of Pittsburgh
Medical Center

Western Psychiatric Institute and Clinic

Ihsan M. Salloum, MD, MPH
3811 O'Hara Street
Pittsburgh, PA 15213
(412) 383-1261
MD-041652-E
DEA # _____

Name David Boyce Age _____

Address _____ Date 3-11-94

Rx Ensure plus Refill 100 time _____

To take II cans TID

(# One bottle
200g)

Ihsan M. Salloum, MC

In order for a brand name product to be dispensed, the prescriber must handwrite "Brand Necessary" or "Brand Medically Necessary" in the space below.

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

March 22, 1994

Ms. Julie Kleemann
Supervisor, Financial Interviewing
University Center
Second Floor
200 Lothrop Street
Pittsburgh, Pa. 15213
(412) 647-5624

Dear Ms. Kleemann:

Please find enclosed a copy of a letter to Dr. Anthony Pietropaoli, Chief Medical Resident, Presbyterian University Hospital, in regard to a two-fold visit to the Endocrinology & Metabolism Unit seeking respite from my emaciated physical condition, in great part, as a result of Clinical Depression for which I have been under treatment at *Western Psychiatric Clinic* for the past three years.

I went to Endocrinology & Metabolism to get a prescription written for *Ensure Plus*, upon which I have been subsisting virtually exclusively now for more than nine months. While *Ensure Plus* is not normally a prescription item, due to my meager income from Social Security Disability and no longer being able to have the liquid nutrition donated to me by the *Greater Pittsburgh Food Bank* and *Ross Laboratories*, the manufacturer of *Ensure Plus* - as I had been for nearly nine months - I must now find an alternative source.

The people of those two entities were very kind to me but could not continue to supply me any longer, gratis. Since I am a patient also at *Falk Clinic*, under *Hill Burton*, I am hoping the prescription that has been written for me for the *Ensure Plus* out of critical medical need, will be honored as such by *Hill Burton*. And as you are the Supervisor of

Financial Interviewing, I therefore respectfully turn to you for the much-needed help. According to hospital sources, you are the only one who could possibly, given the extreme nature of my need and lack of resources, make such a determination since *Hill Burton* normally will only assist with "routinely established prescription" items.

After examination and testing, Dr. Mary Korytkowski of the Endocrinology and Diabetes Centers, as a specialist, established the definite need for the supplement; and Dr. Ihsan Salloum, who has been my psychiatrist for the last three years, had the second opinion he felt he professionally needed - justified beyond any doubt - to write the prescription. The accompanying letter written by me to Dr. Pietropaoli then, should explain more fully to you the complete situation, upon which you may need to base your decision. And for any further questions, please find the attached contact list at the end of the letter, for your convenience.

Thank you very much for your time and consideration in this matter. I hopefully await, of course, a positive reply.

Sincerely,

David P. Boyce

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa.
15232
(412) 362-8362

March 16, 1994

Hunger Services Network of Allegheny County
4907 Penn Avenue
Pittsburgh, Pa. 15224
Attn.: David Robinson,
Program Director
(412) 361-3321

Dear Mr. Robinson:

Per our telephone conversation of, initially, a couple of weeks ago - please find the enclosed copies of my prescription and letter from my doctor regarding *Ensure Plus*. And as we discussed a few days ago, the copy of the letter I first wrote to Dr. Anthony Pietropaoli, Chief Medical Resident, Presbyterian Medical Center, under the advice of legal council, was not for wide dissemination. Therefore, I have included herewith an edited version, in case you need to send it along to the appropriate board as part of the supporting documentation for my request of financial aid in procuring the needed liquid food, *Ensure Plus*.

You will not notice that the edited version is essentially the same, however, all that is missing is the name of the doctor of record and some of the disparaging remarks. This has all been so unnecessary and time-consuming, but; true to form - in accord with the tradition of Murphy's Law. Yet then, as they say: "such is life," or, "there's always *one* in the crowd."

Nevertheless, unlike the *one* doctor, you people have been nothing less than the exact antithesis: cheerful, attentive, willing and able to help. It is much appreciated, and

if you are successful in obtaining the *Ensure Plus* it will be a great relief from my burden of continual foraging, because as you know yourselves, school and the attendant readings and papers are enough to contend with as it is. If all goes well and things turn out, would it be possible to ask for a mix of chocolate and vanilla flavor ? The chocolate is lighter and inherently contains caffeine which makes it better for daytime use, and the vanilla is without caffeine and is a little thicker and ripe for priming one (when indeed there is , due to the homework, time) for sleep.

Since I have already taken up a lot of your valuable time, I had better let you get on with your daily activities now, and wait and see how things turn out. Again, thanks so much for your help.

Sincerely,

David Boyce

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa.
15232
(412) 362-8362

April 4, 1994

Hunger Services Network of Allegheny County
4907 Penn Avenue
Pittsburgh, Pa. 15224
Attn.: David Robinson,
Program Director
(412) 361-3321

Dear Mr. Robinson:

This past weekend I finally managed to get all the letters finished, booklets made and mailed off, including the letter addressed to you. And so now, with what you have with this second booklet - everyone has the same information. I take it that you received the first mailing around March 16. If you sent a reply, I haven't received it. It has taken me this long to get all the other people contacted, things arranged and letters written and material out not only because the depression slows me down severely; but I have been foraging also for *Ensure Plus*, as well as going through mid-terms at school, and changes in medication (like *Prozac*), which have taken their toll.

With this additional information you should have a lot more to go on in terms of documentation and indicators of the critical need that I face. Hopefully, the people that are in the proper positions that have the ability to determine my demonstrated need will find the total package of significant quantity an authority to impel, or compel them to act toward my request positively. I have also gone to the *Greater Pittsburgh Food Bank* again, but all that they could do is to forward me to another church, which will try to furnish me with one case a month.

If you have any news, need more material or to ask some questions, please don't hesitate to call. Between now and the end of April, into May, I will be trying my best to finish out the school term. Also, if you can find a case or two of *Ensure Plus*, or even just *Ensure* - in the interim - it would help greatly, as I am running pretty low. I have been using my food stamps for what they are worth.

Thank you for your concern and attempting to help.

Sincerely,

David P. Boyce.

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

March 22, 1994

Just Harvest
Food Co-Operative
Attn: Pete Harvey, Co-Director
120 East Ninth Avenue
Homestead, Pa. 15120
(412) 464-0739

Dear Mr. Harvey:

Per your request, please find enclosed a copy of correspondence to a third party for your records, pertaining to my search for funding for the needed *Ensure Plus*, liquid nutrition upon which I have been virtually existing for the last nine months or so. If neither of the other parties are able to fund all, or only a portion of, my monthly nutritional needs, it is my hope that your organization may be of some very much-needed assistance.

Thank you for your kind interest and concern in this matter; it is greatly appreciated.

Sincerely,

David P. Boyce

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

March 29, 1994

East End Cooperative Ministries
East Liberty Presbyterian Church
Woodsfield Street
Pittsburgh, Pa. 15206
Att.: Mary Rieger, Food Pantry Coordinator
(412) 361-5549

Dear Mrs. Rieger:

A couple of weeks ago I came to your pantry and picked up a case of *Ensure*, for which I am very grateful. At that time I asked if you would be able to have some *Ensure Plus* (as that is what my prescription is for), or regular *Ensure* that I could benefit from on a regular basis, as my needed volume is so great, and it has been the virtually the only food that I have been able to subsist on for more than nine months now. You then had some questions for me.

Please find enclosed most of what you probably may need to know in the enclosed copies of the letters with which I have been corresponding between my doctors and various agencies.

After I told you that my only source of income was Social Security Disability, I believe you asked me how much money that I was getting for food. I get no money, only \$63 in food stamps per month, which, if I spend it *all* on *Ensure Plus*, still doesn't quite cover two cases. But I also have a few things that I otherwise need: some juice, paper towels, toilet paper, etc - (some popcorn and a few cookies) - which have been the only small amounts of *solid* food that I have been able to consume. So far as the *Ensure Plus* is

concerned, my minimum daily caloric need is 2,000 - 2,500 calories, or about eight cases per month - but which is included along with other pertinent information in the letters.

If you need any further information, please do not hesitate to contact anyone of the doctors, agencies or myself on the contacts list at the end of the main letter to Dr. Pietropaoli, Chief Medical Resident of Presbyterian University Hospital.

Thank you for your concern in helping to meet my serious medical need. And since my current supply is virtually depleted, could you please be so kind as to let me know if you have any *Ensure*, or *Ensure Plus* on hand this week - as I believe you told me that you hadn't ordered any for last week. It surely would be most appreciated. Thank you again.

Sincerely,

David P. Boyce



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

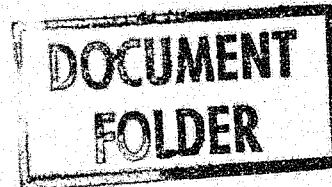
April 22, 1994

(CERTIFIED)

IN REPLY PLEASE
REFER TO OUR FILE

Z-00223698

DAVID P. BOYCE
5608 ELLSWORTH AVENUE #7
PITTSBURGH, PA 15232



Dear Mr. Boyce :

Your Exceptions in the above referenced proceeding were received by the Commission on April 13, 1994 . This was not within 20 days of the mailing to you of the Initial Decision of the Administrative Law Judge, as prescribed in the cover letter transmitting that Initial Decision, and the Commission's Rule at 52 Pa. Code §5.533.

Accordingly, your Exceptions were not timely filed and will not be considered by the Commission.

Very truly yours, *

John G. Alford,
Secretary

BRJ:amh

cc: All Parties of Record
Office of ALJ
Office of Special Assistants
Chairman
Commissioners

DOCKETED
APR 25 1994