

Father sues over death benefit for stillborn son

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INDIANAPOLIS (AP) — A Kokomo man has filed a federal lawsuit seeking to force the government and Prudential Life Insurance Co. to pay a claim for his stillborn son.

Michael Warnock's lawsuit accuses the government and Prudential of breach of contract for refusing to pay a \$10,000 claim Warnock filed after his son, Joshua, was stillborn on April 14, 2002.

Warnock, 29, filed the lawsuit Sept. 10 in U.S. District Court in Indianapolis.

Prudential had no comment on the case since the matter is being litigated, said spokesman Bob DeFillippo of parent company Prudential Financial, based in Newark, N.J.

Warnock, an Army reservist, was enrolled in the military's Servicemembers Group Life Insurance program, which covers soldiers and their spouses and children, the lawsuit stated.

Warnock's wife, Christine, was 38 weeks pregnant when Joshua was stillborn. Indiana law requires a burial for any child who dies after 20 weeks of gestation, according to the lawsuit.

Prudential informed the Warnocks that it would not pay the claim because their stillborn son did not fall under the definition of a dependent child.

"They did deny the claim and the reason for denying the claim was because it wasn't a dependent child because it was stillborn," said Charleyne Gabriel, one of the couple's attorneys.

She said she was not aware of any federal court rulings on the issue of whether parents of stillborn children are entitled to life insurance claims.

The couple's attorneys are seeking class-action status for the lawsuit, which would allow other couples in the military's insurance program and whose stillborn babies were in gestation for at least 20 weeks to join the litigation. The class would include people who had stillborn babies after August 1993.

Gabriel said Indiana's statute of limitations for enforcement of written contracts such as an insurance policy is 10 years. □