

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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SUBCOMMITTEE ON EVIDENTIARY REQUIREMENTS FOR PART B LUNG  
CONDITIONS (AREA #3)

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MEETING MINUTES

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WEDNESDAY  
JUNE 29, 2016

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The Subcommittee met telephonically at 10:00 a.m.  
Eastern Time, Carrie Redlich, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT

MEDICAL COMMUNITY:

STEVEN MARKOWITZ  
CARRIE A. REDLICH, Chair  
LAURA S. WELCH

CLAIMANT COMMUNITY:

KIRK D. DOMINA  
JAMES H. TURNER  
FAYE VLIENER

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

## **Introductions/Logistics**

Carrie Rhoads, the DFO for the subcommittee, called the meeting to order at 10:09 a.m.

## **Simplified Statement of the Problem**

Chair Redlich said that the main focus of the subcommittee meeting was to try to understand the issues, scope, and what additional information the subcommittee needed to accomplish its task. The EEOICPA Act defined specific criteria for diagnosing beryllium sensitization and chronic beryllium disease and this has been a challenging area to review and adjudicate claims. There is substantial financial implication between sensitization and chronic beryllium disease. The magnitude of the claims process is enormous. The problem is how to make the claims process specifically related to Part B lung conditions.

## **Defining the Issues and Scope of the Subcommittee's Topic Area**

Clarification regarding specific diagnostic criteria use for CBD, BS, CS:

Members agreed that the subcommittee should look at exposure assessment for beryllium as it's defined in the statute separately. Part E COPD issues will be addressed by other subcommittees. The subcommittee is going to look at the application of the evidentiary requirements in the claims process. The information coming from the medical provider, how the claims examiner looks at the issues, how evidence is constructed, viewed, and applied are all fair game for this subcommittee.

DOL has asked for specific help with diseases that could arise as a result of the complications due to steroid treatment, and that could apply to other lung diseases as well.

## **Data and Information Needs**

The subcommittee has made a list of data requests and plans to develop summary statistics on the beryllium cases in the DOL database. Reasons for denial are missing in the data. Subcommittee members wanted to delve into the claims process and examine how the claims process is actually being applied. It is going to be difficult to get into the meat of the data

without having some specific case studies. A lot of progress could be made by just having access to the DOL's denial rationales rather than the actual medical records.

The subcommittee's data must come from the DOL database so that the subcommittee can have a comprehensive understanding of how the DOL claims process works.

It is important to look at the entire population of claims, and not just a selective sample, in order to draw broader conclusions. Looking at 10 or 15 individual cases will provide an insight into process, but will not allow for a definitive overarching conclusion.

However, at some point the subcommittee is going to need to review some claims and look at what specific information the examining physician was given. The subcommittee is going to look at the Excel spreadsheet and come up with additional columns that it would like to see included. The subcommittee needs to get a sense of what data is actually available and go from there. Member Dement said that he would prepare some preliminary summaries of the data in the spreadsheet.

In terms of understanding the claims process, Member Welch suggested looking at the date of the initial decision and the date of the file adjudication to get a sense of which cases went through multiple levels of appeal. The documents on the website are representative of what was voluntarily submitted by workers. The subcommittee wants to know what parameters the DOL tracks. A lot of the tracking probably has more to do with the timeliness of the claims process rather than reasons for denial. The subcommittee will look at a sample of cases to get a better understanding of the kinds of information that are compiled and used by claims examiners. The goals are to develop a provisional understanding for recent claims and to better comprehend the types of data that enter the system and are used by various participants in the system to draw conclusions.

The subcommittee wants to get samples of recommended decisions to deny or accept a claim, as well as samples of final decisions. Ideally, the subcommittee could have a summary of its thoughts on the issue of "reasons for denial" by the October full board meeting.

Physicians often struggle to write documents that meet the criteria that the Department of Labor will accept. Member

Markowitz suggested reaching out to the pulmonary community in Oak Ridge during the next full board meeting and asking them about their experiences with the claims process. One of the problems with the statute is that there are some very vague phrases and it is not clear how to apply those phrases. DOL is looking for assistance in coming up with a consistent uniform standard for what is a chronic respiratory disorder. Another related issue that needs to be addressed is the clarity of the procedural manual for claims examiners. The subcommittee would also like to get a copy of the contract medical consultant (CMC) manual.

The subcommittee wanted to know if there are specific criteria for Part B cases in determining what CMCs are used and how many different claims personnel are reviewing beryllium cases. The subcommittee wanted to get a sense of who is writing the reports and their qualifications and training. Member Welch suggested looking at 10 sarcoid cases that were approved and 10 that were denied. Chair Redlich said that the subcommittee wanted to know how many sarcoid claims were filed under both Parts B and E. The goal in looking at the denied sarcoid claims is to examine the level of evidence, whether or not the claimant has any beryllium sensitivity or disease, and then look at what affirmative evidence exists indicating that the claimant actually has sarcoid. For exploratory purposes, reviewing a small number of cases should suffice.

The subcommittee also wants to do the same with ILD/pneumoconiosis - getting the most recent 10 pneumoconiosis claims and making sure that a few of those claims include positive BeLPT.

The subcommittee wanted to get a sense of how many people with beryllium sensitization also have some other pulmonary diagnosis. It is important to assess whether there are Part E claimants that may be misdiagnosed or denied chronic beryllium disease who actually have the disease. COPD and ILD can get misdiagnosed.

Member Dement said that he would be able to turn around a preliminary sorting of the data in about a week.

Member Markowitz mentioned that the subcommittee should develop a plan for scientific issues related to sensitivity and CBD - for instance, looking into the consistency of testing results among different facilities. There is no need for a systematic

review of this particular issue, but a consensus opinion from the board to the DOL would be helpful.

Member Vlieger expressed her concerns about the convoluted nature of the procedure manual as it relates to Part B lung conditions and CBD, and the discrepancy between the criteria for acceptance in the procedure manual and the information in brochures at DOL resource centers.

The subcommittee settled on mid-September for another conference call. Between now and the next telephone meeting, the subcommittee members should have time to review the data and the reports. Ms. Rhoads said that she would send the subcommittee a list of the action items. The meeting was adjourned at 1:24 p.m.

*I hereby certify that, to the best of my knowledge, the foregoing minutes are an accurate summary of the meeting.*

*Submitted by:*



Carrie Redlich, MD, MPH

Chair, Subcommittee on Part B Lung Conditions

Advisory Board on Toxic Substances and Worker Health

Date: 9/23/2016