



**EMPLOYEE:** [Name Deleted]  
**CLAIMANT:** [Name Deleted]  
**CASE ID NUMBER:** [Number Deleted]  
**DOCKET NUMBER:** 20230525-50036884-1  
**DECISION DATE:** November 14, 2023

**NOTICE OF FINAL DECISION**

This decision of the Final Adjudication Branch (FAB) concerns your claim for beryllium sensitivity under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. § 7384 *et seq.* For the reasons stated below, your claim under Part B for beryllium sensitivity is accepted.

**STATEMENT OF THE CASE**

On January 19, 2023, you filed a claim under Part B of EEOICPA in which you alleged that you developed beryllium sensitivity as a result of your employment at a covered facility. On your claim form, you indicated that you lived in Allison Park, Pennsylvania. However, in support of your claim, you submitted an employment history form in which you indicated that you worked for a beryllium vendor named “Materion Natural Resources” at its Mill in Delta, Utah as a factory worker from August 24, 2020 through at least the date that you signed the form on January 18, 2023. In addition, you submitted the results of a beryllium lymphocyte proliferation test (BeLPT) performed on December 9, 2022, in which Dr. Lisa Maier opined that the BeLPT result was abnormal.

To verify your alleged employment, on February 9, 2023, the Jacksonville district office of the Division of Energy Employees Occupational Illness Compensation (DEEOIC) requested your wage report from the Social Security Administration (SSA) for the years 2020 through 2022. On February 23, 2023, the district office received an “Itemized Statement of Earnings” from the SSA in response to its request showing that you earned wages from “Materion Brush Inc” in the years 2020 and 2021. In a development letter dated March 23, 2023, the district office notified you that it was only able to verify your employment through the end of 2021, and asked that you submit further evidence supporting your alleged continuing employment. In a March 29, 2023 response, you submitted: (1) a 2022 Form W-2 that listed your current employer’s name as “Materion Brush Inc” and also confirmed your home address in Allison Park, Pennsylvania; and (2) two paystubs dated December 30, 2022 and March 24, 2023 that were printed on letterhead from “Materion Brush Inc.”

On May 25, 2023, the district office issued a recommended decision to accept your claim for beryllium sensitivity under Part B of EEOICPA, finding that you were employed by the

statutory beryllium vendor Materion Brush, Inc. from August 24, 2020 through at least the date of the recommendation, and that you were therefore a covered beryllium employee, “regardless of work location.” Thereafter, the district office referred your case to FAB for review and issuance of a final decision.

On July 28, 2023, FAB issued an order remanding your claim to the district office for further review of whether you worked at a covered beryllium vendor facility. FAB noted in its order that “[t]he District Office recommended acceptance of your claim for beryllium sensitivity based on your employment at Materion Natural Resources in Delta, Utah,” but “did not request employment verification from the corporate verifier. . . .” Therefore, FAB concluded that the district office needed to pursue further development regarding the location where you worked, because any potential beryllium exposure has to be tied to where you worked. After return of your case to the Jacksonville district office of DEEOIC, a Materion “Manager Occupational Health Benefits” submitted an August 31, 2023 letter stating that you were “employed at. . .our Delta, Utah Facility” from August 24, 2020 through at least the date of the letter.

In a further effort to clarify your employment history, a policy analyst in DEEOIC’s national office called you on October 6, 2023, and during this conversation you stated that you are a project manager who works remotely, and that you go to the Beryllium Mill in Delta, Utah as needed to supervise contractors and review work that is being done there. At the analyst’s request, you thereafter provided numerous expense reports that you had submitted to Materion Brush, Inc. showing the trips you took to Utah. Also, on October 11, 2023, the same corporate verifier submitted another letter confirming that while you work at “our Delta, Utah Facility [as] a Project Engineer,” you physically reside in Pennsylvania. In support of your physical presence at that site, an official who works at the Delta facility provided an October 18, 2023 letter in which she stated that “[**Employee**] is an employee of Materion Brush and has worked at the Materion Natural Resources facility in Delta, Utah [as] an Engineering Project Manager and has been on-site at the Delta, Utah facility providing project support” during specified time periods from January 17, 2022 through August 31, 2023.

In light of the above, the Director of DEEOIC issued an October 30, 2023 order that vacated FAB’s July 28, 2023 remand order and returned your Part B claim to FAB for a final decision. In addition, your representative submitted a signed Form EN-16 answering no to all questions regarding lawsuits, tort claims, state workers’ compensation claims and fraud.

Based on the foregoing, FAB hereby makes the following:

#### **FINDINGS OF FACT**

1. You filed a claim for beryllium sensitivity on January 19, 2023.
2. You were diagnosed with beryllium sensitivity on December 9, 2022.

3. You were employed by the statutory beryllium vendor Materion Brush, Inc. from August 24, 2020 through at least October 18, 2023.
4. You worked on-site at the Beryllium Mill in Delta, Utah, a beryllium vendor facility, during specified time periods from January 17, 2022 through August 31, 2023.

Based on these findings of fact, FAB also hereby makes the following:

### **CONCLUSIONS OF LAW**

FAB has independently reviewed the evidence of record and the recommended decision issued by the district office on May 25, 2023. A claimant who receives a recommended decision from the district office is entitled to file objections to the findings of fact and conclusions of law. 20 C.F.R. § 30.310 (2019). You filed a waiver of the 60-day period for filing objections so a final decision may be issued.

In order to be entitled to Part B benefits as a “covered beryllium employee” under § 7384l(7) of EEOICPA, an employee of a beryllium vendor must have been employed by that vendor “during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy.” 42 U.S.C. § 7384l(7)(C). Brush Wellman, Inc. and its predecessor Brush Beryllium Company is the statutory beryllium vendor named in 42 U.S.C. § 7384l(6)(B). As recognized in EEOICPA Circular No. 11-09 (issued May 13, 2011), on March 8, 2011, the corporate name of Brush Wellman, Inc. changed to Materion Brush, Inc., and the covered time frame for this statutory beryllium vendor is August 18, 1943 and continuing. Section 7384l(7) also states that current or former employees of a beryllium vendor are covered beryllium employees “if and only if the employee is determined to have been exposed to beryllium in the performance of duty in accordance with section 7384n(a). . . .” Thus, in your claim, the relevant provisions of EEOICPA require that you must have been: (1) *employed by* a beryllium vendor as described above; and (2) that you *worked at* a beryllium vendor facility, for at least one day, in order to be eligible for benefits under Part B.

As set out above, there is ample evidence in the file to support the finding that the district office made in its May 25, 2023 recommended decision that you were employed by the statutory beryllium vendor Materion Brush, Inc. from August 24, 2020 through at least October 18, 2023, which is during a time period when that entity produced or processed beryllium for DOE. However, FAB’s July 28, 2023 order found that further development was necessary because the evidence then in the file was insufficient to establish that you worked at a particular beryllium vendor facility. Since then, DOE has recognized that the Beryllium Mill in Delta, Utah is a beryllium vendor facility under EEOICPA<sup>1</sup>, and the October 18, 2023 letter noted above confirms that you worked at that site for at least one day. Therefore, the evidence is sufficient to conclude that you are a “covered beryllium employee” under Part B of EEOICPA.

---

<sup>1</sup> See 88 Fed. Reg. 63095 (September 14, 2023).

Under Part B, a diagnosis of beryllium sensitivity is established by an abnormal BeLPT performed on either blood or lung lavage cells. 42 U.S.C. § 7384l(8)(A). The medical evidence in the case file includes an abnormal BeLPT performed on blood cells, thus establishing a diagnosis of beryllium sensitivity.

For these reasons, you are a “covered beryllium employee” and your beryllium sensitivity is a “covered beryllium illness” as those terms are defined at 42 U.S.C. § 7384l(7)-(8). You are entitled to beryllium sensitivity monitoring under Part B of EEOICPA effective your date of filing, January 19, 2023. 42 U.S.C. § 7384s(a)(2).

E.L. Turner  
Hearing Representative  
Final Adjudication Branch