



EMPLOYEE: [Name Deleted]
CLAIMANT: [Name Deleted]
CASE ID NUMBER: [Number Deleted]
DOCKET NUMBER: 20231016-50034029-2
DECISION DATE: November 6, 2023

NOTICE OF FINAL DECISION

This is the decision of the Final Adjudication Branch (FAB) concerning your claim for benefits 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, FAB accepts your claim under Part B of EEOICPA for beryllium sensitivity and awards you medical monitoring for this condition.

STATEMENT OF THE CASE

On May 19, 2022, you filed a claim for benefits under EEOICPA and identified beryllium sensitivity as the condition alleged to be related to your employment at a covered facility. In support of your claim, you submitted the results of a beryllium lymphocyte proliferation test (BeLPT) performed on blood cells obtained on March 17, 2022, which showed an abnormal response to beryllium sulfate. You also submitted an employment history form indicating that you were employed by “Materion” in Shoemakersville, Pennsylvania from February 28, 2022 to the present.

On January 10, 2023, the district office issued a recommended decision to accept your claim for beryllium sensitivity. However, on March 15, 2023, FAB issued an order remanding your claim to the district office for further development and the issuance of a new recommended decision. The remand order indicated that the Department of Energy (DOE) database of covered facilities did not contain a beryllium vendor facility located in Shoemakersville, Pennsylvania.

Upon return of your claim, the district office received a previously requested statement, dated March 30, 2023, from the corporate verifier for Materion Brush, Inc. confirming that you worked for Materion Brush, Inc. at its facility in Shoemakersville, Pennsylvania from February 28, 2022 to the present. On April 6, 2023, the district office also sent a memorandum to the Policy Branch, seeking guidance regarding your alleged employment at a beryllium vendor facility.

On April 24, 2023, the Policy Branch requested your earnings from the Social Security Administration (SSA) for the year 2022. On May 10, 2023, a statement of earnings from the SSA was received showing Materion Brush, Inc. as your employer. The district office also

received a June 28, 2023 letter from your authorized representative stating that Materion Brush, Inc. operates several facilities within the United States for the production of beryllium and beryllium-containing materials, including the facility in Shoemakersville, Pennsylvania which it purchased from Penn Precision Products, Inc. in December 1957.

A subsequent review of DOE's database reveals that there is now an entry describing a covered beryllium vendor facility called the "Shoemakersville Plant" in Shoemakersville, Pennsylvania. The accompanying text specifically notes that a predecessor of Materion Brush, Inc. purchased that worksite from Penn Precision Products, Inc. in 1957, consistent with the assertions on this point made by your authorized representative.¹

You completed a Form EN-16 affirming you have not received money from a tort settlement or from a state workers' compensation program for the condition, and you have not pled guilty to or been convicted of fraud in connection with a federal or state workers' compensation claim.

On October 16, 2023, the district office issued a recommended decision to accept your claim under Part B of EEOICPA for beryllium sensitivity and forwarded your case to FAB for an independent review of the evidence. Since then, FAB received your signed statement waiving any objections to the recommended decision.

After a review of the evidence of record, FAB hereby makes the following:

FINDINGS OF FACT

1. On May 19, 2022, you filed a claim for beryllium sensitivity.
2. You worked for Materion Brush, Inc. at the Shoemakersville Plant, a covered beryllium vendor facility in Pennsylvania, from February 28, 2022 to at least March 30, 2023.
3. You were diagnosed with beryllium sensitivity based on an abnormal BeLPT on March 17, 2022.

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

CONCLUSIONS OF LAW

FAB has reviewed the evidence and the recommended decision issued by the district office on October 16, 2023. You waived your right to object to the findings of fact and conclusions of law of the recommended decision. 20 C.F.R. § 30.316(a) (2019).

The statutory term "covered beryllium employee" includes a "current or former employee of a beryllium 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 a

¹ DOE's facility database is located online at: <https://ehss.energy.gov/Search/Facility/findfacility.aspx> (retrieved November 1, 2023).

statutory beryllium vendor listed at 42 U.S.C. § 7384l(6)(B). On March 8, 2011, the corporate name of Brush Wellman, Inc. changed to Materion Brush, Inc. The covered time frame for this statutory beryllium vendor is August 18, 1943 and continuing, regardless of the work location. EEOICPA Circular No. 11-09 (issued May 13, 2011).

The Shoemakersville Plant in Shoemakersville, Pennsylvania is owned and operated by Materion Brush, Inc., a statutory beryllium vendor.² Therefore, in light of the employment evidence from the SSA and the corporate verifier confirming your employment by Materion Brush, Inc. at the Shoemakersville Plant, FAB concludes that your employment at that location from February 28, 2022 to at least March 30, 2023 is covered employment at a beryllium vendor facility under Part B of EEOICPA.

Furthermore, 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 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) and (8). Thus, you are hereby awarded beryllium sensitivity monitoring effective your date of filing, May 19, 2022. 42 U.S.C. § 7384s(a)(2).

Cleveland, Ohio

Jessica Lanier
Hearing Representative
Final Adjudication Branch

² FAB notes that in a recent *Federal Register* notice, DOE indicated that it would only announce the existence of additional beryllium vendor facilities owned and operated by statutory beryllium vendors in its facility database mentioned above. *See* 88 Fed. Reg. 63095 (September 14, 2023). This is one such new beryllium vendor facility owned and operated by Materion Brush, Inc.