

Dept of Labor Inconsistently Processing Claims for Chronic Beryllium Disease

Energy Employee Occupational Illness Compensation Act (EEIOCPA) claims for chronic beryllium disease (CBD), should be the most clear-cut claims for the Department of Labor adjudicate. The criteria for approval are expressly spelled out in the Act itself.

Historically, if a claimant suffered from what was believed to be CBD, but died and received a diagnosis of another lung condition other than CBD, before 1993, they could still qualify for benefits if they satisfied three of the five statutory pre-1993 criteria. Thus, approval did not require a firm diagnosis of CBD. Yet, in recent cases it has been the Division of Energy Employees Occupational Illness Compensation's (DEEOIC's) position that a claim for CBD cannot be approved without a firm diagnosis. This is evident in DEEOIC's latest claims examiners' training manual.

Additionally, for post-1993 claims, DEEOIC is also requiring a firm diagnosis of CBD before awarding the compensation. This firm diagnosis can only be obtained through an invasive procedure known as a lung lavage. This procedure is only one of the five criteria and should not be necessary to support a claim. To require a claimant undergo this harsh procedure to prove CBD is not only cruel but unnecessary under the law.

Historically, DEEOIC has asserted that all claims are adjudicated in a fair and consistent manner. Therefore, advocates have questioned why DEEOIC has deviated from an earlier position to approve claims without the need for a firm diagnosis. Medical evidence submitted for both pre-1993 and post-1993 criteria claims is sufficient proof that a claimant has met the statutory requirements to prove a CBD claim. Yet, DEEOIC has changed its position and now requires a diagnosis. This is not required by the statutory language.

Rachel Leiton, the Director of DEEOIC has recently been contacted by the Alliance for Nuclear Worker Advocacy Groups with a request that she advise:

- When DEEOIC first determined that a firm diagnosis is necessary to approve a claim for CBD
- The number of the Final Bulletin or Final Circular which announces this change in procedure
- The legal rationalization for now requiring a firm diagnosis for CBD.

We will keep you updated on her response.

Beryllium exposure continues to be a problem at Livermore Lab. If you believe you may have Beryllium sensitivity or CBD, you may be eligible for benefits. A beryllium screening can be performed at no cost by the Medical Screening Program for Former Workers of LLNL, (925) 551-7844.

Do You Know a Sick Worker Who Needs Help?

If you are receiving this newsletter, you likely know more about the Energy Employees Occupational Illness Compensation Program Act than you would like to. However, I am repeatedly surprised with how many former energy employees in this community are completely unaware of the program.

Applying for benefits from the Act can be an overwhelming and complicated process.

If you or someone you know needs help with their existing claim, starting a claim, or appealing a claim, send them

our way and we can offer advice and suggestions, or completely handle their claim as an Authorized Representative.

Contact Scott Yundt, Tri-Valley CAREs Staff Attorney:
(925) 443-7149 or scott@trivalleycares.org



Save the date:

**The Next
LLNL-SNL-
LBNL Sick
Worker
Support Group
Meeting:
Wednesday
May 2nd at
12:30 PM at
Livermore
Public Library,
1188 So.
Livermore Ave.**



US Department of Labor Approves Additional California Nuclear Weapons Site Former Employees For Eligibility Under its Energy Workers Compensation Program

Recently the U.S. Department of Labor notified former workers of 25 newly covered facilities located in California that are now eligible for benefits under the Energy Employees Occupational Illness Compensation Program Act administered by the department's Division of Energy Employees Occupational Illness Compensation. Survivors of qualified workers also may be entitled to benefits.

Former employees of the following sites may now be eligible for EEOICPA compensation and medical benefits if they worked at the facility during a period of covered employment: Hexcel Products in Berkeley, Ceradyne Inc. in Costa Mesa, Lab for Energy Related Health Research in Davis, Electrofusion and Poltech Precision in Fremont, Sandia Laboratory Salton Sea Base in Imperial County, Lab for Biomedical and Environmental Sciences in Los Angeles, Robin Materials in Mountain View, Philco-Ford Corp. in Newport Beach, Stauffer Metals, Inc. and Calif. Research Corp. in Richmond, Hunter Douglas Aluminum Corp. in Riverside, Jerry Carroll Machining in San Carlos, Ceradyne Inc. in Santa Ana, Ron Witherspoon, Inc. in Campbell, Lebow in Goleta, Edm Exotics in Hayward, Hafer Tool in Oakland, Electro Circuits, Inc. in Pasadena, Pleasanton Tool and Manufacturing in Pleasanton, Arthur D. Little, Co. and Lab of Radiobiology and Environmental Health in San Francisco, C. L. Hann Industries in San Jose, City Tool and Die MFG in Santa Clara, and Tapemation in Scotts Valley.

EEOICPA Part B covers current and former workers diagnosed with cancer, beryllium disease or silicosis caused by exposure to radiation, beryllium or silica while working directly for the U.S. Department of Energy, that department's contractors or subcontractors, a designated Atomic Weapons Employer or a beryllium vendor. Individuals or their survivors found eligible under Part B may receive a lump sum compensation payment of \$150,000 and medical expenses for their covered conditions. Part E, created by an amendment to the EEOICPA on Oct. 28, 2004, and also administered by the Department of Labor, provides federal compensation and medical benefits to DOE contractors and subcontractors who worked at covered facilities during a covered time period and sustained an illness as a result of exposure to toxic substances.

In support of the Department's implementation of the EEOICPA, DOE maintains a list of covered facilities under the EEOICPA, which is periodically updated and published in the Federal Register. DOE also maintains a searchable covered facility database, which contains additional information pertaining to each of the facilities, including years of covered activity and an overview of the type of work performed. The database can be accessed online at <http://www.hss.doe.gov/healthsafety/fwsp/advocacy/faclist/findfacility.cfm>.

If you or someone you know worked at one of these facilities and believes a work related illness resulted, you may be eligible for compensation and benefits under EEOICPA. Additionally, if you or someone you know has previously applied for EEOICPA compensation and benefits, but your claim was denied, and you also worked at one of the sites on the above list (in addition to the already claimed sites), you may now be eligible for benefits based on newly approved work time and exposure. Contact Tri-Valley CAREs staff attorney, Scott Yundt for information about filing or re-opening a claim.

To date, the department has delivered more than \$313 million in EEOICPA compensation and medical benefits to 3,008 eligible EEOICPA claimants living in Calif., and more than \$7.7 billion nationwide. Do not let your claim go uncompensated, call us today!