

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER
HEALTH

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SUMMARY MINUTES

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MONDAY,
JUNE 19, 2017

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The Advisory Board met telephonically at 1:00 p.m. Eastern Time, Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT
MARK GRIFFON
KENNETH Z. SILVER
GEORGE FRIEDMAN-JIMENEZ
LESLIE I. BODEN

MEDICAL COMMUNITY:

STEVEN MARKOWITZ, Chair
LAURA S. WELCH
CARRIE A. REDLICH
VICTORIA A. CASSANO
ROSEMARY K. SOKAS

CLAIMANT COMMUNITY:

DURONDA M. POPE
KIRK D. DOMINA
GARRY M. WHITLEY
JAMES H. TURNER
FAYE VLIEGER

DESIGNATED FEDERAL OFFICER (DFO):

DOUGLAS C. FITZGERALD

Call to order and roll call

Doug Fitzgerald, the designated federal officer (DFO) for the board, called the meeting to order at 1:08 p.m. and took the roll. The board members introduced themselves.

Opening remarks

Chair Markowitz urged the board members to read the public comments. The comments raised issues that the board has not yet addressed. The committee chairs should pay special attention to the public comments.

Beryllium issues

Member Redlich said that her subcommittee has looked at data on the beryllium claims and has reviewed the recommended decisions on 80 Part B cases. The subcommittee has also reviewed the DOL guidelines relevant to Part B cases. At the last subcommittee meeting, the subcommittee made a recommendation regarding borderline beryllium lymphocyte proliferation tests (BeLPTs). The subcommittee has come up with a few draft recommendations and a complete response to the questions that the Department of Labor (DOL) had put forward to the subcommittee. Member Redlich presented the subcommittee's recommendations to the board.

Draft Recommendation 2

The following criteria are proposed to define a clinical course consistent with a "chronic respiratory disorder" for use in evaluating pre-1993 chronic beryllium disease (CBD) claims:

- i) Respiratory symptoms (e.g. shortness of breath, cough) that are chronic*

- ii) PLUS ONE of the following:
 - a) Abnormal pulmonary function tests (PFTs) OR
 - b) Abnormal chest imaging (chest x-ray or CT scan) OR
 - c) Hypoxemia, OR
 - d) Use of respiratory medications such as asthma or chronic obstructive pulmonary disease (COPD) inhalers

*"Chronic" indicates symptoms (or medication usage) that are present for more than three months, to differentiate from symptoms (or

medication usage) related to an acute infection or other problem that resolves. If the claims examiner cannot determine, based on the record, whether the condition was present for more than three months, then the case should be referred to a contract medical consultant (CMC) to determine if the condition was a chronic respiratory disorder.

Member Redlich's concern with greater specificity is that it may lead to arbitrary decision-making on the part of claims examiners (CEs). Member Boden crafted language as an addendum to Draft Recommendation 2 that will give the CEs leeway in evaluating whether or not a claimant's condition fits the category of chronic respiratory disorder. That language is represented by the above sentence beginning with, "If the claims examiner cannot determine..." The board spent a significant amount of time wordsmithing this sentence. The board agreed that having a mention of specific months was a good idea. Three months was the consensus duration. With regard to medication, Member Vlieger said that during the course of her treatment, she was told to purchase over-the-counter medication.

Member Cassano suggested that a supervisory claims examiner be standing by during board and committee meetings.

Chair Markowitz noted that according to the pre-1993 criteria, the claimant has to have a history of beryllium exposure. The board thought that the recommendation didn't need to say "prescribed" medication because a successful claim would need to include three of the five chronic criteria spelled out in 13B(ii) of the EEOICPA, four of which would require that the claimant had received medical attention.

The board unanimously approved the updated Draft Recommendation 2 after a roll call vote.

Draft Recommendation 3

The Advisory Board recommends a substantial revision of sections of the Procedure Manual and related materials relevant to Part B conditions, taking into consideration the comments in this document and other feedback from the Advisory Board.

Rationale: Sections of the current Procedure Manual and related materials are inconsistent, confusing, and at times medically inaccurate, which can hinder proper adjudication of Part B claims.

Responses to DOL's specific comments and questions

Member Redlich presented the responses to DOL's specific comments and questions. Member Redlich read the responses and asked for questions. All of the issues raised were addressed in detail. There did appear to be cases where some workers that were covered beryllium workers did not get compensated because the CMC did not recognize beryllium-related disease or exposure.

The board unanimously approved Draft Recommendation 3 after a roll call vote.

Endorsement

The Advisory Board endorses the presumption of CBD in situations with a diagnosis of sarcoidosis in an individual who meets the definition of a "covered beryllium employee" under Part E or Part B.

DOL Criteria on Solvent Related Hearing Loss

Member Welch gave the board an update on solvent-related hearing loss issues. Member Welch reminded the board what the current DOL presumptions are for solvent-related hearing loss and presented the list of solvents in the DOL criteria. She presented some literature on solvent-related hearing loss. Recent reviews conclude that both animal and human studies clearly establish effects of solvents on hearing. The review of compound-specific data has clear limitations since most workers are exposed to multiple solvents. Review of mixed exposure data is more limited.

Consensus statements are available from The National Institute for Occupational Safety and Health (NIOSH) (2003), the Environmental Protection Agency (EPA) (2003), Nordic Expert Group, and the European Agency for Safety and Health at Work (EU OSHA). There is no consensus on dose-response or existence of threshold in reviews, although a recent paper has addressed it (through European collaborative study).

Systematic review by NIOSH and the Nordic Expert Group for Criteria Documentation of Health Risks from Chemicals shows styrene, toluene, and xylene carbon disulfide cause hearing loss at or below current occupational exposure limits (OELs). Xylene, ethylbenzene have more limited occupational data. Animal data show effects at or below current (OELs). Trichloroethylene (TCE) and solvent mixtures show

significant effect in human studies. Mixtures most often include methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), xylene and toluene.

There are good data that noise and solvent exposure are synergistic in causing hearing loss. However, site exposure matrices (SEM) do not include any information on noise exposure, because noise is not a hazard considered under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

The board considered the following proposed recommendation for solvent related hearing loss:

A claim would meet the presumption for solvent-related hearing loss if there is

A diagnosis of sensorineural hearing loss

AND

Significant solvent exposure defined as:

Work for at least a total of 7 years (or equivalent) in any of the job titles on the list in the current presumption, or in any construction or maintenance job.

OR

Reported exposure to one or more of the following: styrene toluene, MEK, MIBK, N-hexane, xylene, ethylbenzene TCE, or carbon disulfide on OHQ, or evidence for exposure to organic solvents in the SEM, for at least a total of 7 years (or equivalent)

OR

Reported exposures to organic solvent mixtures on the occupational history questionnaire (OHQ), or evidence for exposure to organic solvent mixtures in the SEM, for at least a total of 7 years (or equivalent)

OR

Solvent exposure for at least a total of 7 years (or equivalent) established through work history and DDWLP

Additionally, claims examiners should not routinely deny claims for solvent-induced hearing loss if the worker has had fewer than 7 years of exposure, does not have a DDWL for task, or is not in a labor category on the list. Claims that do not meet the requirements set

forth here but do have reported exposure to organic solvents for at least a total of 5 years should be sent for IH and/or CMC review.

Member Whitley said that they really hold workers to the continuous criteria, so the a total of number of years, regardless of interruption, is a good thing in the recommendation. The exposure should be counted up to the last day of work. Although some people will be left out because of the "at least a total of 5 years" language, this language will streamline the process and get more people compensated.

The board unanimously approved the above recommendation.

DOL update

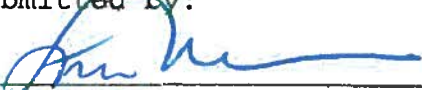
Mr. Fitzgerald said that the board's first set of recommendations are still going through the clearance process. The Secretary has signed the board's charter renewal.

Adjournment

Chair Markowitz asked board members to send any comments on the rationales for recommendations to Members Welch or Redlich. The recommendations will be submitted next week. The next face to face meeting will be in the fall, sometime after October 1st. New Mexico is at the top of the list for the next face to face meeting. Member Domina said that the board should try to tour the sites. Savannah River is another site where the board is looking at meeting. The meeting was adjourned at 4:14 p.m.

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

Submitted by:



Steven Markowitz, MD, Dr.Ph.

Chair, Advisory Board on Toxic Substances and Worker Health

Date: 9/10/2017
