

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER

HEALTH

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SUBCOMMITTEE ON IH & CMC AND THEIR REPORTS

(AREA #4)

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MEETING MINUTES

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FRIDAY,

DECEMBER 16, 2016

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The Subcommittee met telephonically at 12:00 p.m.
Eastern Time, Rosemary K. Sokas, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

MARK GRIFFON

GEORGE FRIEDMAN-JIMENEZ

MEDICAL COMMUNITY:

STEVEN MARKOWITZ

ROSEMARY K. SOKAS, Chair

CLAIMANT COMMUNITY:

KIRK D. DOMINA

GARRY M. WHITLEY

FAYE VLIENER

OTHER ADVISORY BOARD MEMBERS PRESENT:

CARRIE A. REDLICH

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

Introductions and update on initial recommendations

Ms. Rhoads called the meeting to order at 12:05 p.m. Member Markowitz said that after the October meeting, the committee sent its eight recommendations to the agency. The recommendations were:

- 1) That circular 1506, regarding the Post-1995 Occupational Toxic Exposure Guidance, be rescinded. That guidance instructed claims examiners that post-1995 exposures were likely to be de minimis unless otherwise proven.
- 2) That the DEEOIC ensure that the disease exposure links that are part of the Site Exposure Matrix (SEM) are at a minimum brought up to date with readily available and authoritative sources listed in the IOM report.
- 3) That former DOE workers be used in the DEEOIC Resource Centers to administer the Occupational Health Questionnaire.
- 4) That DEEOIC establishes a process where the industrial hygienists interview the claimant directly.
- 5) That the DEEOIC policy teleconference notes taken by DOL be redacted and made searchable and publicly available.
- 6) That DEEOIC make the entire claimant case files available to the claimant online.

7) That DOL create a departmental occupational medicine resource that serves the agencies in a manner similar to the office of the Solicitor of Labor.

8) That the entire case file be made available to the industrial hygienists and CMCs.

The agency has not given Member Markowitz a specific timetable for responses, but he will continue to pursue that. Some of the recommendations involve several different considerations.

Discussion about follow-up of public comments from October full board meeting

Member Vlieger said that most comments were that claims were not handled looking at all of the possible contaminants and were limited by what was on the SEM. The SEM did not consider where claimants worked, what their labor category was, and the processes in place on the job sites. Several comments said there were exposures that were never considered. There were a few outliers concerning the processing of claims.

One worker spoke of cyanide compounds lining the sewer lines at Oak Ridge. Materials poured into the sewer, released cyanide compounds in gases all over the site. Some people talked about the definition of reasonable suspicion and preponderance of evidence. There was confusion around claims processing and how DOL justified acceptance and denials.

Another major concern raised in the public meeting was the expanded 200 mile travel limit, a source of hardship for many.

Chair Sokas noted that individuals also raised concerns about the requirement for ten consecutive years of exposure to obtain approval for claims of solvent-related hearing loss. The committee wanted a more reasonable presumption about solvent-related hearing loss. An additional issue raised by the public concerned the repeated requirements for beryllium testing when Member Redlich had clearly stated that repeated inconclusives should be treated as positive. Member Markowitz said the Part B committee would examine the inconclusive beryllium tests. Member Markowitz suggested the board catalog the public comments. Member Griffon said the Radiation Board's method of dealing with

public comments was to report back at subsequent board meetings and if necessary, follow-up with individual commenters.

Review of status of board requests

Ms. Rhoads said that responses were sent to board members on disks via certified mail. The disks contained the latest OHQ draft, including cases requested by the SEM Subcommittee. There were 25 or 26 COPD cases. The requests made by this subcommittee should have all been responded to. If there is something missing please let Ms. Rhoads know.

Discussion of review of additional case files

On the first case, Chair Sokas was concerned the information forwarded to the physician was limited to only the anemia and related toxic substances that were identified in the SEM and asked Member Griffon whether the IH information was potentially consistent with the extensive documentation of autoimmune health outcomes in the claimant's record. Member Griffon affirmed that solvent exposure is of concern in a number of autoimmune disorders and that the chart lacked appropriate IH information. Chair Sokas raised concerns that the well-documented relationship between autoimmune disorders and anemia was a basic failure of medical chart review, and that other charts, although restricted to COPD cases, also demonstrated failure of the CMC to explore potential relationships thoroughly.

Member Griffon commented on the lack of IH information, and reported on additional cases reviewed, including the case in which a SEC was in place during the time the claimant appears to have been denied. Member Griffon also commented on the challenges in this record and others stemming from an absence of record organization.

NIOSH breaks up communications with the claimant into separate folders. When it finds additional records in the course of review, it adds them to the Site Research Database.

Individual claimants are asked to submit information, to DEEOIC, they think is pertinent to their case. They often submit general articles related to disease and exposure, and there might be studies useful to inform other cases. The committee supported properly organizing the files, and automatically reassessing

previous cases if the agency changes methods. Member Griffon raised concerns about consistency among claims examiners.

Member Griffon said that the industrial hygienist should be able to follow up with the claimant. Member Markowitz raised the question about the expansion of IH contractor work, how the use of industrial hygienists was changing, and on what information the IH was relying. The committee should request whatever information is available from DOL. Member Vlieger asked if the agency would look at claims denied because of the 15-06 Circular guidelines. Chair Sokas proposed a quality check for denied cases. The committee has not yet reviewed the audits of the industrial hygienists and CMCs. Members of the committee use the existing reports gathered for other committees that focus on respiratory issues, but requested files with additional medical outcomes to review. Chair Sokas noted that the previous effort to review the CMC and IH reviews focused on process and not outcomes, and did not include medical or IH experts in the conduct of the review. She emphasized that the communications gap between the program and both treating and consulting physicians needs improvement.

The committee found the letters on the third disk labeled IH/CMC inadequate and confusing. One apparent typographical error appeared to reverse a claims decision, and the form letters themselves were not user-friendly. The initial request was actually for the information the IH and CHC members are using, but instead, this group of letters seems to be ones sent to claimants to ask them for additional information or to notify them of determinations.

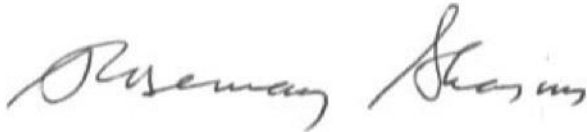
ACTION ITEMS:

1. Members Vleiger, Whitley and Domina will explore the issue of the 200-mile limit. A request was made to DOL to report the rationale for the change and the numbers of claimants impacted.
2. Member Markowitz will take the solvent-induced hearing loss issue to the Presumptions working group and the Beryllium question to that group.

3. Member Griffon will work with Ms. Rhoads to identify and distribute examples of formalized follow-up of public comments as conducted by the Radiation Board.
4. Members were in agreement that the ombudsman's participation at public meetings along with the presence of national and regional program representatives was helpful and should continue.
5. Member Griffon will review additional cases and will explore the need to allow IH interviews of claimants directly.
6. Members Sokas and Friedman-Jimenez will review additional cases and develop suggestions for review of the quality of the medical input into case decisions.

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

Submitted by:



Rosemary Sokas, MD, MOH, M.Sc
Chair, Subcommittee on IH & CMC and Their Reports
Advisory Board on Toxic Substances and Worker Health
Date: 3/__/2017