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

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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 VLIEGER

OTHER ADVISORY BOARD MEMBERS PRESENT:

CARRIE A. REDLICH

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

C-O-N-T-E-N-T-S

P-R-O-C-E-E-D-I-N-G-S

12:05 p.m.

MS. RHOADS: Thank you. Good morning, everybody. My name is Carrie Rhoads, and I would like to welcome you to today's teleconference meeting of the Department of Labor's Advisory Board on Toxic Substances and Worker Health, the Subcommittee on IH & CMC and Their Reports. I am the Board's Designated Federal Officer for today's meeting.

First, we appreciate the time and the work of our Board members in preparing for the meeting and for calling in, and the work they are about to do. I will introduce the Board members on the subcommittee, and we will do a quick roll call for the record.

Dr. Rosemary Sokas is the Chair of the subcommittee.

CHAIR SOKAS: Here.

MS. RHOADS: And its members are Faye Vlieger --

MEMBER VLIEGER: Yes, here.

MS. RHOADS: Mr. Kirk Domina?

MEMBER DOMINA: Kirk is already here.

MS. RHOADS: Mr. Garry Whitley?

MEMBER WHITLEY: Here.

MS. RHOADS: Mr. Mark Griffon?

MEMBER GRIFFON: Here.

MS. RHOADS: Dr. George Friedman-Jimenez?

MEMBER JIMENEZ-FRIEDMAN: Here.

MS. RHOADS: And Dr. Steven Markowitz, who is also the Chair of the Board.

MEMBER MARKOWITZ: Here.

MS. RHOADS: Great. We are scheduled to meet from noon to 1:30 p.m. Eastern Time today.

In the room with me is Melissa Schroeder from SIDEM, our contractor, and Norman Spicer.

(Simultaneous speaking.)

MS. RHOADS: Excuse me?

CHAIR SOKAS: I am sorry. We lost Norm Spicer, the sentence you said after that.

MS. RHOADS: Oh. He's an OWCP employee doing a detail with our group.

CHAIR SOKAS: Thanks.

MS. RHOADS: Okay. So for the meeting today, since it's only an hour and a half, I don't think we will need a break, unless Dr. Sokas disagrees?

CHAIR SOKAS: No.

MS. RHOADS: Copies of all meeting materials and any written public comments are or will be available on the Board's website under the heading "Meeting," and the listing next to this subcommittee meeting. The documents will also be up on the WebEx screen so everyone can follow along. Excuse me.

The Board's website can be found at dol.gov/owcp/energy/regs/compliance/advisoryboard.htm. And if you have not already visited the Board's website, I encourage you to do so. After clicking on today's meeting, you will see a page dedicated to today's meeting. That webpage contains publicly available materials submitted to us in advance. We will publish any materials that are provided to the subcommittee, and there you

should also find today's agenda as well as instructions for participating remotely.

If you are participating remotely and you are having a problem, please email us at energyadvisoryboard@dol.gov. If you're joining by WebEx, please note that this session is for viewing only and will not be interactive. The phones will also be muted for non-Advisory Board members.

Please note that we do not have a scheduled public comment session today. The call-in information has been posted on the website so the public may listen in but not participate in the committee's discussion.

The Advisory Board voted at its April 2016 meeting that subcommittee meetings will be open to the public, so a transcript and minutes will be prepared from today's meeting.

During the Board discussions today, since we're on a teleconference line, please everyone speak clearly enough for the transcriber to understand, and at the start of the meeting, when

you begin speaking, please state your name so we can get an accurate record. Also, I'd like to ask for the transcriber to please let us know if they're having an issue with hearing or with the recording.

As DFO, I see that the meeting minutes are prepared and ensure they are certified by the Chair. The minutes of today's meeting will be available on the Board's website no later than 90 calendar days from today per FACA regulations. If they are available, we will put them up sooner.

Also, although formal minutes will be prepared, we will also be publishing verbatim transcripts. Those transcripts should be available on the Board's website within 30 days.

I would like to remind the Advisory Board members that there are some materials that have been provided to you in your capacity as special government employees and members of the Board which are not for public disclosure and cannot be shared or discussed publicly, including this meeting. Please be aware as we continue with the meeting today, these materials can be discussed

in a general way which does not include any personally identifiable information, such as names, addresses, specific authorities if a case is being discussed, or doctors' names.

And with that, I convene this meeting of the Advisory Board on Toxic Substances and Worker Health, Subcommittee on IH & CMC and Their Reports. I will now turn it over to Dr. Sokas, who is the Chair.

CHAIR SOKAS: Thank you so much. So I am going to just turn it right over to Dr. Steve Markowitz for the first substantive item on our agenda, which is an update on the initial recommendations that were forwarded to the Secretary of Labor on November 4th and any subsequent communication Steve had or any follow-up to those recommendations. Dr. Markowitz?

MEMBER MARKOWITZ: Sure. So on November 4th, a couple weeks I think after our October -- the end of October meeting, we sent in our eight recommendations with brief rationales

for those, and we have received a written reply in the last couple of weeks.

I had had a phone call with Carrie and Tony before we received the written response, so I had some heads-up, but let me just review briefly the response to our recommendations. The overview is that there are two in particular that they specifically responded --

CHAIR SOKAS: Steve ?

MEMBER MARKOWITZ: Yes?

CHAIR SOKAS: Would you mind just -- the recommendations themselves are short. If you could read off the recommendations, maybe, as you are giving the response to them?

MEMBER MARKOWITZ: Sure, sure, okay.

So Recommendation 1 is we recommended that the circular 1506, which deals with the Post-1995 Occupational Toxic Exposure Guidance, be rescinded. That was, briefly, the guidance that basically instructed the claims examiners that post-1995 exposures were likely to be de minimis unless otherwise proven.

Actually, so let me just say that that recommendation, the DEEOICP accepts this recommendation, agrees with it, and their plan is to rescind this circular so it no longer be effective, and we expect that to occur in January 2017, so in a few weeks. So that was our first recommendation.

Our second one was that we recommended that the exposure disease links that are part of the SEM, the Site Exposure Matrix, that the DEEOICP, the division ensure that the disease exposure links are at a minimum brought up to date with readily available and authoritative sources that were listed in the IOM report, including for instance the National Toxicology Program, the World Health Organization, the others.

The DOL did not really address this. I need to say that most of the recommendations are under consideration. They have not come to decisions about them, and so the fact that they did not address it within the first month of us submitting it does not mean that they are not taking

it seriously or they won't act on it. But I will go a little bit further into how -- what they say about how they are dealing with these recommendations.

The third one is that we recommended quite simply that former workers be used by the division district offices in order to administer the occupational health questionnaire. And the response from DOL within the last two weeks was that they agreed, and that they have generally utilized the practice of employing former DOE workers in the program.

And here I am actually quoting from them: "In this regard, almost 30 percent of our staff at the resource centers have worked at DOE sites, and some, including three managers, have experience at more than one site. As vacancies occur" -- again, I am just continuing to read from their response -- "the resource centers routinely seek candidates that have DOE experience. DEEOIC believes that with the assistance of the Board, the OHQ can be improved upon and replaced within the

second quarter of the fiscal year, which is January through March of 2017, leading to enhanced data collection on the employees' work history."

So that was their response, and I realized actually that our recommendation, we maybe were not -- possibly we weren't specific enough. The fact that 30 percent of the staff at the resource centers worked at one or more DOE sites is a good thing. Obviously, that means they are familiar with DOE.

The issue we were really focusing in on was who was actually doing the occupational health questionnaire, and our logic was that people who worked at the site who had frankly experience in production, in operation, in maintenance, you know, the jobs that were in general the higher risk jobs, that those were the folks who should be doing the occupational health questionnaire.

So the issue was not simply that of DOE employment. The issue was at the sites, who had the experience to best administer the more difficult parts of the occupational health

questionnaire, which is captured in the exposures.

So, you know, in the response from DOL to the fact that 30 percent of the staff at the resource centers had worked at DOE, my concern was that it could easily be administrative personnel because much of the work at the resource center is administrative, and that the administrative personnel from DOE would not necessarily have that expertise in addressing exposures that production, operations, maintenance workers would have. So anyway, that has to be I think discussed a little further in terms of their response.

Recommendation number 4 was that we -- we suggested that the division establish a process where the industrial hygienists, they interview the claimant directly. And there was no specific response to that. I will get into sort of the general response, DOL, to these recommendations.

The fifth recommendation was that the policy teleconference notes that are taken that DOL has, that those be made available, redacted, publicly available so that all parties could

benefit from that. Again, there was no specific response to that.

Recommendation number 6 was that we recommend that DOL make -- prospectively make the new change files available online so that claimants could access them. And this actually is tied in with the Recommendation 8, which is that the entire case file be made available to the industrial hygienists and the CMCs so that they have access to all the information that could be relevant.

And the response from the DOL is that "The Board has made other recommendations that we believe have the potential to be beneficial to the program, including granting the claimants, industrial hygienists, and contract medical consultants direct access to the case file. As we examine the feasibility of this recommendation, DEEOIC will look at leveraging technological solutions utilized by other divisions within OWCP that will allow this sort of access. DEEOIC will also consider what new procedures, additional resources, contract modifications, and training

will be required." So that is their response to 6 and 8, which is that they are kind of thinking about what it means to actually implement those recommendations.

And then Recommendation 7, the final one that I haven't discussed so far, is that we recommend that DOL reorganize its occupational medicine resources to pool them so that numerous entities within DOL could draw upon a pool, and this was not specifically addressed by the department in its responses.

So let me see if there is anything else in their response which I need to address here. Quote, "With regard to the recommendations, DOL will be issuing detailed responses in the near future." So I am going to be meeting with them soon to discuss, kind of figure out a little bit more about what is involved with review and decision-making around the recommendations, and urging them to move in a timely fashion.

I have not been able to pin anyone down to a specific timetable in responses, but I will

continue to try to do that. There are issues. Some of these things that kind of sound straightforward to us, to actually do involves a number of different considerations, some of which we well understand, some of which we probably don't, so it's understandable that there is no specific timetable for addressing these recommendations, but on the other hand, we will push to work with them to make further progress.

So Rosie, that is all I have. That is my report.

CHAIR SOKAS: So I'd like to just ask if anybody has questions, and I am going to start. So my question to you is it sounds as if there was a positive response to that first recommendation, and in fact, you know, that was already being -- or is in the process of being rescinded, which is encouraging. I mean, it suggests that those kinds of recommendations, and I anticipate for example that we will come out of this working group with some additional suggestions that will then be items for discussion at our next full face-to-face

meeting, and what you have just presented suggests that there is a reason to keep doing this -- in other words, that, you know, it doesn't just get tossed in the circular file.

And I would suggest that the time frame for the department's response on most of these would be something that gives the Board a chance to think it through, absorb it, you know, reflect on it before our next face-to-face meeting because it does shape how we come up with recommendations then.

Did anybody else have -- on the working group have a question for Steve about any of the responses he has given so far?

MEMBER VLIEGER: I just have one question, and I don't know if it slipped through the cracks or -- we discussed it at our meeting as well.

Circular 1505 is very similar to 1506 in that it talks about excluding people from asbestos exposures, and I don't remember if we deferred that for later or included it in a

different subcommittee.

MEMBER MARKOWITZ: No. I am sorry, I have to look up the circular again, because if it is the entire circular addressing asbestos, then that will be discussed in the Presumptions Working Group.

MEMBER VLIEGER: Okay. All right. That answers my question. Thank you.

MEMBER MARKOWITZ: You know, in detail and critically. If it's a variation of the Post-95, then -- but let me look at it and chime in.

CHAIR SOKAS: No, I think you are right, Steve. I think that is where it was.

MEMBER MARKOWITZ: Okay. Okay.

CHAIR SOKAS: Any other questions or comments?

(No audible response.)

CHAIR SOKAS: Okay. I think we could move right along. Thanks so much, Steve. That was nice and concise.

I would like to turn this over to Mr.

Vlieger, Mr. Whitley, and Mr. Domina. Again, this is in follow-up for the public comments that were made at the last full meeting. Faye, do you want to take it over?

MEMBER VLIEGER: Yes, I will start. I had computer issues, but I had made hand notes during the public comments on the 19th, and I can go through them, or I can just summarize what -- what went on.

The -- the flavor of the majority of the comments were that they felt the claims were not handled looking at all of the possible contaminants, that things were limited by what was on the SEM, that the SEM did not explore all of the different variables that were there, including where they worked, what their labor category was, and the processes that were actually there versus what showed up on the SEM.

So a number of the comments were based around the concept that there were exposures that were just never considered. Then there were a few outliers that were more around the processing of

their claim, that they didn't understand how things went the way that they did, that the claims process was very slow, that they felt disconnected from the ideas of what Department of Labor was putting forward as causation versus what was going on with their claims.

I can read you some of the synopsis from -- this is from the 19th. There were questions about why treatment and travel were not being paid appropriately. When people tried to add things to the SEM, it disappeared and was never added. Labor categories were not listed in the SEM.

Toxic exposures as mixtures, not pure chemicals, should be considered. Lack of neutron monitoring at Oak Ridge was one of the claimants. There was a comment about K-25 cross-connected potable water supply to process water and thereby exposed a lot of workers to that.

There was a comment that I felt was really interesting, and I don't even know how we get into this: one worker said that he was aware that there were cyanide compounds lining the sewer

lines at Oak Ridge, and when he designed materials that were poured into the sewer, it released cyanide compounds in gases all over the site and into the water -- into the air, so thereby exposing workers.

There were some people that talked about the definition of reasonable suspicion versus what is used as more likely as a preponderance of evidence, so they were all -- a lot of it was processing of the claim and how things were justified by the Department of Labor. How the claimant was kept in the loop, a lot of them felt like there was a disconnect and there was no reality between the exposures and what the Department of Labor was reviewing.

So those are the summary comments that I have from October the 19th. Garry and Kirk, do you want to take the 18th?

MEMBER DOMINA: This is Kirk. I know a couple of things that came up on the first day had to do with the 200-mile travel limit, the people that see a CMC, which is a huge issue, and then also

consequential diseases aggravating and contributing to.

And so I don't know on some of the CMC stuff because I know -- I will just speak under workers' comp for Washington, they bring the doctors in, and I understand you've got to be licensed or something in another state, but I mean, I don't know why. For some of these people having to travel great distances, it makes it pretty tough on them.

And then I know part of the other part that I heard was with -- they talked about was SEM issues and job titles, and I just want to make a comment about the SEM thing. I received an email. There was a conference call between Department of Labor, Department of Energy, and Department of Energy Richland on November 15th about issues with the SEM about trying to enhance it, and so I got an email on that the day before Thanksgiving, which was a holiday for us, so I didn't see it until the following week.

And then I talked to Greg Lewis about

it from Santa Fe on November 30th because there was an advisory board on radiation and worker health there, and I'm going to be a part of this for the Richland one, but the person in Richland that I deal with, we have been playing phone tag a little bit, so we have not been able to catch up with each other on -- because Richland, DOE Richland said they would take the lead on this to try and enhance this, and so I guess that's part of the thing that's coming up in the future.

It plays into both this subcommittee and then also the SEM one, so I just wanted to make that comment so people knew that that was coming on, and I don't know if there's anybody from the Department of Labor on the phone that was on that conference call that can comment on this either, so that pretty much concludes what I need to say.

MEMBER WHITLEY: This is Garry here. Since I am here at Oak Ridge, I had already talked with a lot of the people that were talking, and that was for those claimants, and what it seems that they feel about the process is that the process is harder

because the claims examiner -- I got one of them in front of me that the claims examiner, even though they have lack of hearing, so they've already sent all the doctor's notes, all of everything that is required, and then they send back a letter, are starting to send back letters now to the doctors that say well be specific, and how do you think this caused that, you know?

And so the -- you put the doctor back on the spot to say exactly which chemical that you were around caused the hearing loss? So it is making the process much longer just because of the way they are interpreting -- the claims examiners are interpreting the rules.

CHAIR SOKAS: This is Rosie. So what I am hearing, I am just going to kind of see if we can put it into some potential action items for us as a group.

So it sounds like -- first of all, I did want to acknowledge both Garry's work, but also the fact that the Ombudsman was at the meeting and that, for a number of individuals who had concerns, it

was very helpful to be able to say here is the person, go speak with him. And that was also true of some of the other DOL people who were there who were immediately able to approach individuals and offer to kind of help, you know, with some of the -- with some of the navigation. So that was -- that I thought was very helpful, and I think we all appreciated that at the meeting and want to make sure that that continues at future public meetings.

But to sort of go through some of the things that I just heard reflected now, that one of the huge areas is the concern about the exposure assessment and how exposure assessment is incorporated or not into this whole activity. And obviously, that is one of the main things that our working group is addressing, our subcommittee is addressing, so putting that front and center, recognizing that there is a separate working group for the SEM.

So there are a number of areas, and we're going to hear from Mark in a little bit about, you know, some of the -- and I think Faye has already

mentioned some of the issues around trying to get more nuanced exposure assessment conducted by industrial hygienists directly contacting, so that is an area that we can try to move forward on.

The other piece I heard was the 200-mile travel limit being expanded. That was a source of hardship for a number of people there, and we have not really taken that up as something that we want to address. And I will put it out there: that does seem to fall into our area for comments, and so we may at the end of this call decide that different people, you know, will take a lead on some of -- on developing some thoughts around these particular items so that we can come prepared to the next full meeting with drafted, you know, conversation items that might result in actual recommendations.

And then the third thing I am forgetting right now. I am doing a little -- oh, this business about -- that Garry just raised about kind of communicating back with the treating physician and asking for -- I mean, we have had concerns

throughout about the quality of the communication with the treating physician, from the use of some of the terminology that is frankly quite alienating as well as this kind of -- you know, the quote unquote "rationalizing your decision," I mean, which just drives some of us nuts.

So I think that as well, and we will get into that later with Carrie in terms of what are the pieces of information that we requested, and what else do we still need to get? But those are three things that I heard right now. I'd like to ask if anybody else, say Mark, Garry, or Kirk, if you've got other things that you want to pull forward from what we just heard to make sure that we don't -- oh, I'm sorry, one last thing.

One thing I did remember hearing were the individuals who had problems with the hearing loss, if they didn't have ten consecutive years of exposure, which we all kind of agree was not -- was not justified in the circular, so I think that should definitely be on our list. I know it didn't get discussed right now, but it was one of the items

that came forward in the public testimony.

So any other areas for us to take up and move forward with I might have missed?

MEMBER JIMENEZ-FRIEDMAN: So I have a concern about these general limitations that are being put on, like all exposures after 1995 are minimal, and this one about the 10 years of exposure for solvent-related contributions to hearing loss, which is medically ridiculous: can we make a general statement as an advisory board that these kind of limitations are not in the interest of making an evidence-based individual decision on causality?

CHAIR SOKAS: Steve, I am going to turn that over to you since you have more interaction experience.

MEMBER MARKOWITZ: Well, you know, yes, we can make a general recommendation. The problem is whether that will translate properly, because people mean different things by evidence.

And, you know, I am sure for instance on the issue of 10 consecutive years with solvents

prior to 1990, there was some evidence that was used to support that decision. So yes, in general, sure, we can make a general recommendation, but I think more specifically, again, on particular issues, I think it will be more effective.

MEMBER VLIEGER: This is Faye. And you guys may or may not know this, but the circulars and bulletins came out where they were limiting exposures and limiting people in that labor category to exposures, and the post-95 exclusion, all of those circulars and bulletins came out at about the same time, all using the same rationale that DOE had improved worker safety, and based on the fact that they had produced regulations, not on any audits that proved the same. So I think we are going to end up with the same rationale for all of these limiting bulletins and circulars as we did for 1506.

MEMBER JIMENEZ-FRIEDMAN: For example, we could make a recommendation -- this is George -- that those limitations be reflected at the end and not be an overall global statement, but

rather taken on a case-by-case basis when deciding on individual cases, using the SEM and other exposure information.

MEMBER MARKOWITZ: Yes, I mean -- Steve Markowitz -- we could, but to direct them back to an incomplete resource that is sometimes inaccurate, you know, raises other issues.

MEMBER JIMENEZ-FRIEDMAN: Yes.

MEMBER MARKOWITZ: Frankly, if we were able to come up with a more reasonable presumption about the solvent-related hearing loss, that would -- that might be a more efficient way of suggesting the question.

CHAIR SOKAS: So Steve, is that something that the other committee is going to do, or should we transfer that over?

MEMBER MARKOWITZ: The hearing loss issue, or the --

CHAIR SOKAS: The hearing loss issue. I just heard you call it a presumptions question, so --

MEMBER MARKOWITZ: Yes. You know,

that is -- I don't know, actually, because it is not an SEM question, really. It is -- nor is it clearly an IH, you know, this committee, so it's kind of cross-cutting.

I think it's a prime example of a presumption, so I think we can probably at the moment send it to the Presumptions Working Group.

CHAIR SOKAS: Okay, great.

MEMBER MARKOWITZ: This will be, you know, the first two weeks in January, and then come back to it by committee if we need to.

Let me ask a different question about the 200-mile business, because that is something very specific. And obviously, they went to this 200-mile idea because they could not find resources more available locally. That is my guess.

So take this on: do we need some data from DOL? In other words, do we need to cite anything, look at anything that would strengthen our approach to this problem of 200-mile limit? And if so, then we should request that before, you know, the next meeting so that we can maybe address

that issue, not just, you know, on the face of it, it sounds ridiculous, 200 miles, but actually have some data to support it.

CHAIR SOKAS: So I am going to actually ask Faye and Kirk and Garry as the kind of sub-subcommittee if they wouldn't mind doing that, and I think that's a good idea, you know, to get as much information, maybe data on how frequently, you know, there were problems arising in the past versus now. I mean, whatever you guys want to ask for, but to kind of review that and come up with a -- you know, kind of a framework for discussion and the information needed for it.

MEMBER VLIEGER: This is Faye. I can tell you what I heard from claimants here in the Northwest. Many times, this is done because someone at the Department of Labor does not agree with the requirement for home health, and so they get this referee doctor, if you want to call them a referee. That's not the term we use up here.

Anyhow, they get this doctor who will look at them, and so they -- they don't want to look

at any of the medical records. They do a one-time assessment of the person in their office and then decide whether or not whatever is appropriate, and many times, it is home healthcare.

So the person who is getting home healthcare is limited in many ways, is required to make this travel, and it's an unreasonable thing to require. Many of these people don't drive anymore, have to find someone to take them. And then the distance, you know, is -- and we live with a mountain range in the middle of the state.

CHAIR SOKAS: So just to clarify, Faye, and again, Carrie or whoever is on the phone, if you happen to know this, please feel free, and again, it would be helpful for us to know what the requirements were and how they got changed and what they are, for those of us who don't, but again, this is Faye and Garry and Kirk's kind of area of expertise, so I guess if -- I'm losing my thought, I apologize.

So it is not what Steve was implying, in other words, that oh, it takes 200 miles to find

a pulmonologist who has expertise in this particular problem or an occupational physician with a particular expertise: it's -- the issue is the use of home healthcare, presumably primary care physicians or rehabilitation medicine physicians at the most, you know, specialized, would be able to do that.

So I guess it is an open question: what are the criteria that are used to select people? Why was it felt that the expansion in distance was required? I think those are fairly straightforward questions.

MEMBER MARKOWITZ: So what -- this is Steve. My point is that we should frame those questions and pose them to DOL if we want to address this issue.

MEMBER VLIEGER: Okay. I got it. This is Faye. I agree we can propose those questions.

CHAIR SOKAS: So Faye, you want to restate them?

MEMBER VLIEGER: Sure. The question

is -- oh, I'm sorry. The question is primarily what are the -- what are the reasons why the Department of Labor would refer a claimant for this type of evaluation? And then the second primary question is what are the qualifications for the doctor that you are looking for the referral?

MEMBER MARKOWITZ: Yes, okay.

CHAIR SOKAS: And I would add a third, which is what prompted the change in distance?

MEMBER VLIEGER: Oh, the change in distance? Okay.

CHAIR SOKAS: Yes.

MEMBER VLIEGER: All right. Got it.

CHAIR SOKAS: Okay. So those will be reflected in the minutes, and then that is actually -- those are the questions that are going forward then for Carrie to take to DOL.

So we have sort of addressed -- we have hearing loss to the Presumptions Working Group, and Steve is going to carry that back to them. We've got the questions that Faye just posed to the Department of Labor, and we'll review and get back.

We are probably not going to focus on the SEM because there is the SEM Committee, but we are going to focus quite a bit, and we can do that maybe in the next -- in not the next one, but the following discussion item, the whole question of the frustration around exposure assessment.

Faye, you had mentioned previously the whole question of whether the industrial hygienists are going to be able to interview the workers -- the former workers themselves, and I don't know if now is the time to kind of discuss that a little bit or if you want to defer it to when Mark Griffon is presenting what he sees from some of this.

MEMBER VLIEGER: I will defer for now.

CHAIR SOKAS: Okay. Great. So we are actually a little ahead of time, which is always lovely. Any other things that we might have missed that should be followed up from the public discussion items last time?

(No audible response.)

CHAIR SOKAS: All right. Hearing none

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MEMBER WHITLEY: Garry here.

CHAIR SOKAS: Sorry?

MEMBER WHITLEY: This is Garry. The lady that had -- and I think the ombudsman talked to her, the lady that had like eight or nine inconclusive beryllium tests -- and we discussed a little bit. I think in California, somebody said that after so many inconclusive, it was a positive.

We have several of those, and I think we ought to at least ask questions or look at that or something. I mean, you know, I don't know what you do if you had eight or nine inconclusives, and you're still sick.

CHAIR SOKAS: So Carrie Redlich was quite adamant about that, and I will turn that over to Steve again because I think it may be something that will come out of either the Presumptions group or -- or something else. Steve, would you want to let us know if that is being addressed?

MEMBER MARKOWITZ: Well, we can address that. I mean, the Part B Committee is

going to be looking for work soon.

CHAIR SOKAS: Okay. Great, because that was a big issue.

MEMBER MARKOWITZ: I mean, on that particular person at the meeting, I can tell you that our former worker program followed up with that person.

CHAIR SOKAS: Oh, great.

MEMBER MARKOWITZ: And it is actually an important issue to discuss across the former worker programs since we do a lot of beryllium testing, so I will follow up and raise that with Laurie and with the others in the former worker programs, and I will make sure it gets on the plate of the Part B Committee.

CHAIR SOKAS: That is terrific. Thanks so much. Thank you, Garry.

MEMBER MARKOWITZ: One last thing before we close this out: it does strike me, though, that, you know, we hear the public comments, we listen to them, and then we move on at the meetings. And they are included in the transcript, but maybe

on the Board we should try to figure a way of sort of cataloging them succinctly so that we can make sure that we, you know, come back to them, and that they are not lost.

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: It's not a specific proposal. I am just throwing out an idea that we should think about.

CHAIR SOKAS: No, I think that is really important. I thought that was something that I think we all felt kind of frustrated at the meeting, that, you know, here were people sharing this information, and we couldn't respond immediately, but that wasn't -- you know, that wasn't the way that that was set up.

So the -- I think --

MEMBER VLIEGER: Just to say, can we just take a little rabbit-hole trip for just one second?

Dr. Markowitz, the former worker program, would it be within your purview to discuss, with some of the major players in the

follow-up medical under the Department of Labor's benefit card, in that what I see out of one of the major players many times is the person comes through every two years for their follow-up evaluation, yet nobody connects the dots from year-to-year to make a CBD diagnosis -- is there some way the former worker programs could reach out to some of those major players -- and I will send you an email on this -- to have them be more consistent with their review and their diagnoses?

MEMBER MARKOWITZ: When you say "their review," you're talking about the former worker program review, or --

MEMBER VLIEGER: No. These are major medical facilities that the Department of Labor allows to do the two-year follow-up for anybody with beryllium sensitivity.

MEMBER MARKOWITZ: Well, I mean, that is -- we can follow up off-line, but that -- the former worker programs individually may well be receptive to helping individuals. We're a screening program, you know, offering screening

every three years. We don't -- ones that seem positive, we turn them over to other facilities, and we don't follow them necessarily. So it's just not within our domain. But we can talk about it off-line.

MEMBER VLIEGER: Okay. Thanks.

CHAIR SOKAS: I mean, so this is just something that --

MEMBER GRIFFON: This is Mark Griffon.

CHAIR SOKAS: Yes.

MEMBER GRIFFON: Just a comment on the follow-up for public comments from the meetings. That is something that we did run over the years in the Radiation Board, and they have a model that we might want to look at in terms of how they do it.

They actually report back the next meeting on some of the comments that were made at the previous meeting and whether there was any follow-up from the agency to individuals, because sometimes they ask, you know, specific questions. And we'll just go down, and usually, it's the DFO

that summarizes sort of all the comments, and if there was any action taken by the agency regarding those comments, things like that. And we have a running spreadsheet or database of those. So something, a model we may want to look at and, yes, steal.

CHAIR SOKAS: Thanks, Mark. That is a great idea, I think.

MEMBER MARKOWITZ: Yes, Carrie, this is Steve Markowitz. If you could locate one or more of those on the Radiation Advisory Board website and send it around, that would be helpful, or maybe Mark can point our way in that direction, so we can see --

MS. RHOADS: I can take a look.

MEMBER MARKOWITZ: Okay.

MS. RHOADS: If you think there's a good one anywhere, anybody, can you send me that one, a particularly good one?

CHAIR SOKAS: Mark, can you do that?

MEMBER GRIFFON: Yes, I can follow up on that, yes.

CHAIR SOKAS: Okay, great. Thank you. So we're now just exactly on time, I think, and we can move along into -- this is for Carrie now, actually. We're with you in terms of the status of Board requests, and I did have a question for you because when I looked at that -- this is number three that was sent out right before, you know, our face-to-face meeting, it had -- you know, it had a number of charts that were presented that I think were in response to a number of questions, not just one of the other working groups.

But the last little tab that was supposed to be in response to our working group, the IH CHC one, I mean, I was kind of puzzled. It was basically a series of two-pagers, and I could not remember if we had asked for it and why we had asked for it, so I apologize. But they didn't seem to be particularly rich in terms of the information contained.

MS. RHOADS: So the last tab on the last disk was a series of two-pagers, and you are looking for more information on those topics, or wondering

--

CHAIR SOKAS: Well, because I thought what we were asking for was information, so what do the CMCs and the IHs get, and then what do they send back? And -- and that was not what was there. And I might have misremembered, so it is entirely possible I just completely spaced, but -- but so anyway, I will let you just take this part over because I am sure you've got other things to say, but that was the question that came up when I was looking at those.

MS. RHOADS: Okay. We can email about that afterwards about exactly what you were expecting, if it wasn't there on the disk.

For the other request, just so everyone knows, if you have not gotten your disk yet, we have mailed out a fourth disk on I think Wednesday morning to everybody on the Board. It will come certified mail, like the others, so it might not have gotten there yet.

It has on there the latest OHQ draft that the - program has done. It has also the cases

that were requested by the SEM Subcommittee. There are 25 or 26 I think COPD cases, and there is a change on this disk. The previous disks, they had not asked for everything, but they wanted the latest decision and the reports that supported that. On this new disk that is going to everybody, it has all the medicals and all the reports, as we discussed at the last meeting that you thought you needed more of the medical information to look at the cases. So they put all the medical on this disk.

And also there was some data requested by the SEM Subcommittee on this disk as well, so you all should be getting that soon.

Now for this subcommittee, your last meeting was last summer, and I think that you all have the things that you requested from there except for what Dr. Sokas just asked about. If there is anything else that you think you are missing or that you would like to see, please let me know and I will either help you find it or go and get it from the program if we don't have it

already.

But other than that, there are not very many outstanding items. Dr. Sokas did ask for some more information on a couple of the cases that appeared on the third disk, and the program is putting that together. We'll send that out separately when it is together. We did not want to hold up the entire fourth disk for it.

CHAIR SOKAS: Thank you.

MS. RHOADS: Yes. So --

CHAIR SOKAS: Do you have any comments or questions for Ms. Rhoads?

(No audible response.)

CHAIR SOKAS: Okay. Thank you very much.

MS. RHOADS: Sure.

CHAIR SOKAS: I think maybe after our -- this next conversation, this next agenda item, we might -- we might have some additional questions. It is not clear to me that having the full record on just the COPD cases are going to be sufficient, but we will see. We will see, and we

may not really have any -- we may not need to see anything other than what you are already collecting, you know, before our next face-to-face meeting, so we'll see what other people say.

So I am going to turn this one over to Dr. Griffon and Friedman-Jimenez, and I will have some comments as well, but this is the additional case files that were given in these three that do come up with a bunch of different questions. I did have one little tiny question for Carrie, in case you know this off the top of your head.

I mean, one of the things that we had said from the outset was that there is really no need for a family history. I am assuming that that is one of the things that has been deleted on the revised version, but I just didn't -- I haven't seen it, so I was wondering if you happen to know that.

MS. RHOADS: I do not know that off the top of my head, so I will check.

CHAIR SOKAS: All right. So I am sorry. Mark, George, I am going to turn it over to you right now. George, did you want to start

with any comments you had on any additional case files you looked at, questions --

MEMBER JIMENEZ-FRIEDMAN: I couldn't look at any case files because I couldn't find the CDs. Like a good boy, I did not copy them onto my computer, and I don't know where they are.

CHAIR SOKAS: Oh, okay. Well, let me get started then and bring Mark into the conversation, because I think a lot of this is IH stuff.

So I looked at several of the -- I think the first half of the records that were provided to -- again, it was to another working group, so it was not in response to our particular questions. And just some random thoughts: I mean, you know, there clearly are form letters that go out, and there's a utility to form letters.

There is also, unfortunately, you know, I saw a typo in one of them that was "I regret that I could issue" rather than "couldn't issue" approval, so it was in a denial letter, but they kind of somehow mixed that up. So, some of this

is just, you know, are there opportunities for quality improvement, quality assessment?

The other thing that struck me pretty strongly with several of the denials was that there might be medical questions that could be raised. There is one, for example, where -- and I am going to turn this over to George -- I'm sorry, to Mark -- just about if there was a laboratory technician who had worked for a number of years, significant amount of time, who had a ton of autoimmune -- was followed in a university rheumatology clinic with a bunch of different autoimmune diagnoses, including lupus, including, you know, inflammatory arthritis, including a number of things, and was rejected on the basis that there -- you know, that there was no credible exposures related to that.

One of the concerns I had -- so that's a question for Mark -- one of the concerns that I had, the, you know, this is a partial chart, but it was already 197 pages, right? And there were lots and lots and lots of medical pages from the university, the first bunch of them all about

sinusitis, and, you know, kind of routine stuff before you get into the meat of what the diagnosis has been for years and years and years.

So the denial that came through incorporated a reference to a CMC report but did not include that report, and the CMC report basically was that her anemia was attributed to iron deficiency and not related. Well, no one who has followed somebody in rheumatology clinics for 20 years is going to attribute anemia in that circumstance to iron deficiency unless there is gross evidence of bleeding someplace, right?

So we did have that. One of the things I requested was the CMC report, but the CMC report seemed not to have taken into consideration what the medical evidence was, so there's that whole piece to it.

The other piece that was something that I think the earlier recommendation would address is there is also this statement that goes to -- I think it's in a different chart, that we've got the CMC report, and if you request it, we will send it

to you. So it just seems pretty obvious that people should have access to CMC reports. I mean, that should just be an automatic thing.

And so if the people aren't getting access through secure port to all of their records, that will be something we need to focus on, but it does remind us that that is something that is useful. So Mark, I am going to turn it over to you in terms of whether you -- what you thought of the information about exposure for that particular case, if you had a chance to look at that one.

MEMBER GRIFFON: Yes, Mark Griffon. Yes, I did look at that case, and I mean, I will just speak mainly about what I found that was missing. I don't know that I would -- you know, can make any conclusions or anything like that. I don't think that's our role here anyway.

CHAIR SOKAS: Right.

MEMBER GRIFFON: But I think the concern I had was that the information that was forwarded to the physician -- I think we talked about this before -- was limited to only the anemia

and the toxic substances that were identified in the SEM that were related to anemia, and all the other diseases were -- I assume that other information was not forwarded to the physician for the final determination.

So this gets back to are they getting the whole picture, or are they just getting a -- is it getting filtered out ahead of time? The other part I was concerned about was, just as you said, the CMC report was not included, and also I note here in there that when I went through it, I could not find the interview questionnaire. Most of these cases that I looked at had the summary of the interview questionnaire, but I could not find it in this one. I did find a summary of it on page 194 out of 197, but not the full questionnaire.

So, you know, and I wasn't sure exactly what we had requested and what this represented in terms of the full case file, so that was another, you know, sort of confusion on my part. But I guess, you know, my first -- I guess my most -- biggest concern was that the physicians seemed to

have the information that they got sort of filtered down, and made their -- you know, they didn't really look at all the listed immune deficiency diseases. That wasn't included.

And I didn't know, Rosie, do you want -- I mean, should I go over some of the others? I mean, I looked at all these cases, not, you know, page-by-page, but I looked at them pretty well, and have comments, if they were appropriate here.

CHAIR SOKAS: Yes, I think so, and I have a couple of other comments afterwards on some of the medical aspects of it. One of the points I just did want to make on this particular case as well was that she apparently also got her treating physician from the university to write in letters explaining the relationship between her autoimmune disease with its potential exposures, and those were not included in the record set we received, and those were dismissed by the -- I don't know if they were seen by the CMC, but they were not accepted by the CE.

So there's a whole ton of questions

about -- you know, this is a complicated case. Nobody is going to suggest that it is straightforward. But there clearly was a denial made with -- and the question is to what extent was the full complexity of the case actually explored?

So Mark, I will turn it back over to you for the other comments that you want to make on other cases.

MEMBER GRIFFON: Yes, and I will start, this will be the organization of the files, I am not sure again what we're getting in this -- in the way we're getting the data sent to us, but I wonder if all these case files are just one big PDF rolled together, or if they are separated into, you know, the various pieces. And this is just -- based on what we have done on the other slide, the NIOSH slide, it's a lot easier to look at these records when they're all broken up, so NIOSH breaks up the communications with the claimant into separate folders.

They have the dose reconstruction review in separate folders. The DOE records are

separate folders, and there are separate PDFs for all of those. This is maybe nitpicking, but it would be a lot easier.

The other point here is that when they do that, if -- when NIOSH finds additional records in the course of their review, they actually -- if they are -- if appropriate, they add them to what is called the Site Research Database, and they are flagged such that they can be used for other cases when appropriate.

And I think that's an important thing because, you know, these individual claimants are asked to submit information that they think is pertinent to their case. A lot of times, they will submit these general articles or other studies that have been done related to disease and exposure, and if they just kept the individual's claim file, they never get shared and collected, there might be a whole bunch of COPD studies that are coming in that might be useful to inform other cases, and they are not being added over the full population of claims that come in. So it's more than just organizing

the files. You know, it is how they can be used.

The other thing, you know, when I went through this --

MEMBER MARKOWITZ: Mark? Mark, I just --

MEMBER GRIFFON: Go ahead.

MEMBER MARKOWITZ: Before you move on, I just want to support this idea of organizing the files properly. It is not nitpicking at all. They may have -- we don't really know how they do it, and it may -- for us to look at it, they may have merged them all into a single PDF for convenience --

MEMBER GRIFFON: Right. That's what I wasn't sure on, yes.

MEMBER MARKOWITZ: One convenience, but think of the IH and the CMC. I think we advocate them having access to the whole file. And they need an organized file to look at, so it's not a nitpicking issue.

MEMBER GRIFFON: I just -- you know, I wasn't sure whether it's organized internally and

we just got sort of everything merged, like you said, so I --

CHAIR SOKAS: So that's a good question for Carrie, if she -- you know, to let us know what the standard organization looks like and how it goes out to people.

MEMBER GRIFFON: And I think it comes -- you know, it comes up in some of these files that I looked at because different ones are missing different pieces, and it makes you wonder why, you know? For instance, there was one that was entirely based on the radiation dose, the PoC. I actually cross-referenced this -- well, anyway, the PoC was 54 percent, and yet the dose reconstruction summary, the IREP report, was not in this file, whereas it was in several other files. And so it made me wonder, like, you know, how these are all organized.

There is also -- you know, in some of the letters, I think it's probably in all of the letters, there's boilerplate language -- or at least in all the denial letters -- the boilerplate

language when it talks about if this case was based on radiation dose -- and just bear with me for one second. I've got to find it so I can read it, because this is -- this is at least troubling to me.

(Pause.)

MEMBER GRIFFON: It says, and I am quoting here, "If the claim was denied because a claimed cancer was not causally related to work-related exposure to radiation and you can identify either a change in the PoC guidelines, a change in the DR" -- dose reconstruction -- "methods, or an addition of a class of employees to the special exposure cohort, you may also request a reopening of the claim."

I am struck by -- I am assuming, and I know it happens on the NIOSH side, that any time there is an SEC, they go back and they do a program evaluation review where they look through all the previously decided cases and make sure that they don't affect any of those cases, and if they do, you know, they'll add them. So in other words,

it's not up to the claimant --

CHAIR SOKAS: Right.

MEMBER GRIFFON: -- to keep track of these methods changing and all this stuff, but rather if the agency changes the methods, they should automatically reassess previous cases. So I hope -- I just was struck by that language and concerned by that.

CHAIR SOKAS: So that is a request also then for Carrie, to see if that language is still being used, and if it is, maybe that's a recommendation we could make to change it, and what the procedure then is if there's a new SEC. How does DOL handle that?

MEMBER GRIFFON: Right. And then there is another case in the list of cases that we reviewed, and this follows this last boilerplate language that I described. There was a case in ones that I reviewed that was denied, and that, you know, it made me look close because it was a Hanford case in a certain time period which I was almost sure was an SEC time period.

I looked at the NIOSH website, and it is an SEC time period, so everything I have in that claim file suggests that it was denied, and I would hope it got reevaluated. So that's another reason to bring this up. I think --

CHAIR SOKAS: So Mark, I think if you send the information to Carrie, she is looking stuff up on those other cases that I requested, you know, just to see if that case was reopened.

MEMBER GRIFFON: Right, right. And then the last, I guess I'm sort of -- you know, these are pretty all over the place. I am sorry.

But the last thought I have was on the questions of consistency and fairness: I know one of the cases I looked at, you know, there are places in here, and actually the radiation side of the program is looking at this now too, the question of -- there is a lot of -- necessarily, there's a lot of areas where there is professional judgment, and so when I saw this one case that we had in this group, it was a COPD case, and it came down to not a question of whether there was exposure, but a

question of the frequency and sort of significance of the exposure. And the person doing this review determined that it was not very significant, and the claim was denied.

And I wonder if, given to another claims examiner, if they would have come to a different conclusion, you know? So it's that question of how does the program assure, at least to the extent, you know, practicable, consistency between and across different claims examiners? And, you know, that's --

CHAIR SOKAS: Would this -- so there was a COPD case that I was looking at that I was struck by that, Mark, it might be the same one, where they went to a medical review, but they were told -- the medical review explicitly said that because the exposure wasn't enough, you know, the information about exposure was not -- was not enough for them to make a determination that the COPD was related, and this was after COPD had been identified as one of many, you know, kind of different things to go forward with, and they got

denied on everything else. They went forward with a request to evaluate the COPD, but it was denied on the basis of the exposure assessment, but you couldn't tell from the chart how much exposure assessment had really taken place.

MEMBER GRIFFON: Right. And another COPD case in the group was approved, and I saw no basis for re-exposures, you know what I mean? I didn't see any -- not that it doesn't exist, but it wasn't in the file that we reviewed, anyway. There didn't seem to be any basis at all, just mention of the site of the job, that sort of thing, and it was approved for COPD. So I want -- you know, that raised a consistency question in my mind.

CHAIR SOKAS: So I'd like to turn this back to the question that Faye raised earlier about the suggestion that the industrial hygienist be able to actually follow up with the person and interview them, or other approaches to trying to get better exposure assessment into the decision process. And Mark, I don't know if you want to

address that now or if anybody else on the subcommittee wants to discuss that.

MEMBER GRIFFON: I will let others chime in.

MEMBER MARKOWITZ: This is Steve Markowitz. One of the things we need to do -- we need to learn about is with the expansion of the IH contractor work, which is relatively recent, exactly what's happening: how is the use of industrial hygienists changing? And what goes to the IH is what are they relying upon? Whatever understanding is -- could be available about what is happening with the IH assessment, I think that would -- we should request that from DOL.

CHAIR SOKAS: So let me phrase that, then. So we're looking for the invoice that goes to the industrial hygienist, and then the report that the industrial hygienist makes and the information that then gets used from that report, and how it may have changed lately with the new additional personnel and contracted people?

MS. RHOADS: Okay, thanks.

CHAIR SOKAS: And related to that, I also want to make sure that -- and I think we've done that in the past a little bit, but in addition to the specific cases that we have here, I think having the full cases on this fourth disk might be enough, but the question really is again looking at -- and we have had some in the past, but the question is what does the CMC get -- maybe two or three cases where we get, what got sent to the CMC, and then what the CMC sent back?

MEMBER VLIEGER: This is Faye. I just have a kind of corollary. The information changes or guidelines change on how we're going to look at the claim. For example, now we've had this circular rescinded, 1506 is rescinded.

MEMBER MARKOWITZ: In January, Faye.

MEMBER VLIEGER: Right, okay. But is the Department of Labor planning on going and looking at all the claims that were denied because of 1506 guidelines?

I know they do it for -- like Mark was saying, I know they do it for changes in SEC status

where they go through a non-SEC -- from a non-SEC to an SEC claim. They're supposed to go back and have a way of recouping that. Are they going to do it now for the claims that were denied under 1506? I guess that's a question we need to put to the Department of Labor.

CHAIR SOKAS: Yes.

(Pause.)

MEMBER VLIEGER: By the lack of enthusiastic responses, I think oh, that this is the uh-oh type of question.

(Laughter.)

MEMBER MARKOWITZ: Well, it is going to be challenging, because rescinding that circular does not translate into -- that people in fact had exposures. It just opens the question, whereas movement from a non-SEC to an SEC, you know, categorically changes how a claim is looked at, right? So it's a great question, it's just a very difficult one.

CHAIR SOKAS: It's a hard one. So let me actually wrap it into another question, because

what I am concerned about reading some of these cases, I mean, you know, the approvals -- Mark is right. I mean, there's some that go through, and you're not sure what the basis was, but the denials are the ones obviously we focus on, right, I mean, to be blunt about it.

And in several of the denials, I mean, I think there are medical questions that get raised. There are exposure assessment questions that get raised, and so it raises the question about review: the review that was carried out by the Department, that February, you know, kind of review was really a process review. It was not an outcome review. And so the question really is should there be -- or should we come up with recommendations for a review process that would randomly pick every third denial or something like that and have a second group of eyes looking at it?

Because again, from the ones I looked at, I raised some questions about the autoimmune one. I raised some questions, you know, about the exposure for the COPD. There's others. There's

the consequent illness, if someone becomes weak following tamoxifen for an approved breast cancer, does the resulting type 2 diabetes, you know, follow from that? I mean, those are all questions that I think we could debate and discuss, but it would be helpful to have somebody talking about that in the -- as a quality check, you know, kind of an every third case or every fifth case gets a quality check, even into typos that, you know, kind of go out the door.

And not that there were a lot of those. I don't want to imply that at all. But that it might not be a bad idea to have that sort of a quality check conducted before -- and I know there are lots of stages and steps to these processes, so I am not implying that there is none of that, but when we asked about, you know, kind of the quality assessment, again, it was very clear that what had been done and shared with us was process, so maybe this is a question for Carrie.

With the IH physician onboard and all of that, are there plans for quality review of the

outcomes of the determinations? And maybe share those plans with us. That would be helpful.

MS. RHOADS: Okay.

MEMBER MARKOWITZ: Well, this is Steven. You know, one thing that I don't think we have done yet is DOL has provided us with audits of the industrial hygiene and the CMC. It's on the website. And we have also been provided with statement of work from the contractors who do this. I am not sure that we have actually reviewed those and discussed them, because that is kind of the entry point into pushing further on the quality assessment.

CHAIR SOKAS: So Steve, I probably missed those, but are those separate from that February review that took place across the country?

MEMBER MARKOWITZ: You know, they are on our meeting website. I am just bringing them up here. There's a statement of work for the CMC.

CHAIR SOKAS: Right.

MEMBER MARKOWITZ: It's the first --

(Simultaneous speaking.)

MEMBER MARKOWITZ: -- or whatever, the statement of work for the IHs. There's CMC audit findings 2015 --

CHAIR SOKAS: Yes, that didn't help.

MEMBER MARKOWITZ: Right. Anyway, the question is whether we need to even briefly review those things to make sure that --

CHAIR SOKAS: So if those are the three things you're talking about, those are not helpful for the question I am asking.

MEMBER MARKOWITZ: Okay. Okay.

CHAIR SOKAS: I mean, if there is something new, I easily could have missed it, but that 2015 CMC audit was really, you know, really a process audit.

MEMBER MARKOWITZ: Right, right, okay.

CHAIR SOKAS: And we heard at the meeting I think that there was an entire year that went by when nobody had like a third opinion, you know what I mean? That the second opinions and third opinions are not used very often, so I think we -- I don't think it has been happening. It might

now be happening given the enrichment of, you know, more IHs and having a physician back in place, so it may well be that there are plans to do that or that it has started already, so that's the question I would pose, Carrie, you know, is are there plans now for the kind of quality assessment that really takes place looking at the medical determination for the IH information the way it was gathered from an IH or a medical perspective?

MS. RHOADS: Okay.

CHAIR SOKAS: Thank you. So we are -- any additional comments on these? I think the case files are incredibly helpful for, you know, kind of identifying issues. I wanted -- we've got a final 10 minutes now for all of us to decide, you know, anything else that we haven't talked about or any follow-up or action items that we haven't already expressed.

MEMBER MARKOWITZ: Well, this is Steve, and I mean this material which was given to us, item number five, which I think falls within this committee because it is labeled Industrial

Hygiene and CMC Subcommittee --

CHAIR SOKAS: Those are the ones that are two-pagers that have nothing on them.

MEMBER MARKOWITZ: No, these are the development letters, the ten treating physicians.

CHAIR SOKAS: They were -- oh, maybe not. Was this in the disk, the third disk?

MEMBER MARKOWITZ: Yes, yes.

CHAIR SOKAS: Yes. The last item on the third disk that is labeled IH/CMC, I looked through all of those and found them to be remarkably unhelpful. That is why I was asking Carrie to remind me what that was supposed to represent and what we had asked for, because it didn't really have much information. And that was -- the one piece that was interesting was where they were telling people, kind of haranguing them about the 10 continuous years of exposures to solvents to prove that there was -- but that's -- but that to me was not an enlightening -- I mean, maybe I am reading it wrong, right?

MEMBER MARKOWITZ: Well --

CHAIR SOKAS: But they were very short. One I think was three pages, and the -- it just, it served to remind me that we need to deal with this hearing loss issue because -- and they expressed it differently to different clinicians. So anyway.

MEMBER MARKOWITZ: Well, you know, let me just say that I looked at a bunch of these, and first of all, most of them are not letters to treating physicians, at least in -- that's what they are labeled as, but they are mostly letters to claimants.

CHAIR SOKAS: Yes.

MEMBER MARKOWITZ: And some of them are asking for more medical information, so I don't know whether that's just a misunderstanding or that DOL doesn't communicate with the treating physician directly, it's all done through the claimant, and the claimants ask, you know, find this. What I found --

CHAIR SOKAS: Well that is a good question, actually.

MEMBER MARKOWITZ: But what I found, and they covered more than just hearing loss --

CHAIR SOKAS: No, I know.

MEMBER MARKOWITZ: But anyway, since I looked at them and since they seemed relevant, I have to say that the quality of these letters is really quite lacking. They were far too complicated. The language is way too confusing. They were highly repetitious. People should look at these letters, even briefly, because --

CHAIR SOKAS: I agree.

MEMBER MARKOWITZ: -- they are eye-opening, actually.

CHAIR SOKAS: So that's a question --

MEMBER MARKOWITZ: Yes, I am sorry, I realize that Faye and Kirk and Garry may have seen these letters before -- yes, I think you have -- but it's -- take a look, the rest of us.

CHAIR SOKAS: And Carrie, I mean, that sort of gets back to an earlier question, but if you could again figure out what those letters are meant to do, because it didn't seem to be in

response to a request for us. Or maybe there was a miscommunicated request from us. But what Steve is suggesting is that given that we already have them, what actually is the purpose of them? Because they are kind of unhelpful.

MS. RHOADS: I will go back and mark what they put into that folder with the requests that were made.

CHAIR SOKAS: But also, the separate piece is, you know, whether or not that was, you know, kind of a miscommunication. What those are actually meant to do, what their purpose is and who receives them and why?

MEMBER MARKOWITZ: Well let me just say what I suspect is that these are letters to claimants in which the claimants ask for additional information from their providers. It can be impairment, it can be causation, it can be diagnosis. And so they aren't -- they are labeled in the table of contents as letters to medical providers, but they look like letters to claimants requesting more medical information. Frequently

they contain requests for additional information --

(Simultaneous speaking.)

MEMBER MARKOWITZ: -- medical.

MEMBER WHITLEY: Garry here. I'm looking at this one in Projects. Sometimes, they send a letter back to the claimant saying -- and a copy of the letter back to the doctor, treating physician, asking for more information or asking to be specific about what chemical or whatever. But my question is on that, the thing about that is if the claims examiner does that, and they don't get a letter back from either the doctor or the claimant that satisfies what they are looking for, and they then -- you know, if you don't do that in 30 days, they will recommend that they close the case.

Does that case go anywhere else? Does anybody else look at that case after that, or does the claims examiner make the final call that I don't think there is enough information?

MEMBER VLIEGER: My experience, this

is Faye, is that no, they don't, because their consideration is that there was inadequate evidence to further the claim, and so they recommend the denial, and in the statement of accepted facts, it will say well they didn't answer us, and there's not sufficient evidence, so that is why we are recommending denial. That is paraphrasing a four-page letter.

But you will see many claims like that because the workers submitted them and they said they consider it adequate, but the claims examiner was the final word on it, and the claims are reviewed by the supervisors. If they think there is inadequate evidence, they have the ability to forward the claim with a recommended decision to deny.

MEMBER WHITLEY: I agree. That is what I thought was happening, but I just wanted to be sure.

CHAIR SOKAS: So my ask, because we've got two minutes left, I want to ask Mark if he would kind of moving forward -- and maybe, you know, maybe

work with Faye on, you know, kind of recommendations for exposure assessments, whether we need more information, or, you know, how to handle that. We already have Faye, Garry, and Kirk going to be working on the 200-mile question.

I would also propose that George and I might want to look at, you know, the medical review process for quality assurance, if, you know, we find additional information. Does that sound like we've got our action items covered? Oh, and then the hearing loss that Steve you are going to the Presumptions group.

MEMBER MARKOWITZ: Right.

CHAIR SOKAS: Any other action items we need to think about?

MEMBER MARKOWITZ: Well, whether you want to have another call before our meeting at the end of March.

CHAIR SOKAS: Yes. Well, it depends, yes. We can think about that off-line.

MEMBER MARKOWITZ: All right.

CHAIR SOKAS: All right. We are at the

hour, or the half-hour. Any last comments? Thank you, everybody, and thanks to Carrie and everyone who -- who has been working so hard on this. Any last-minute comments or thoughts?

MEMBER JIMENEZ-FRIEDMAN: This is George. I apologize for not being prepared for this. I am moving one office, and things are in--

CHAIR SOKAS: Oh, no worries, we'll get you, don't worry. Thank you.

All right, everybody. Well, have a wonderful holiday season.

(Whereupon, the above-entitled matter went off the record at 1:30 p.m.)