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Feds Act to Correct DOE Compensation Problems

After the US government amended the Energy Employees Occupational Illness Compensation Act (EEOICPA) last month, all former nuclear workers now have the same opportunity to pursue claims under the act.

Previously, the EEOICPA allowed employees with Beryllium Disease, radiation-related cancer or chronic silicosis to seek compensation under a special federal fund (Subpart B) managed by the Department of Labor (DOL). Workers with other illnesses, including non-radiation cancers, were required to seek compensation under state workers' compensation laws, and the Department of Energy (DOE) was to assist them (Subpart D). Claimants with cancer also were eligible for payments up to \$150,000 under Subpart B.

However, almost none of those pursuing claims under Subpart D of the EEOICPA have been compensated. State workers' compensation systems require documentation of exposure. In many cases, this is impossible since many DOE contractors have closed shop, and their records are lost or destroyed. In some cases, there were no insurers who could cover the claims at specific DOE facilities.

Given the huge disparities between the Subpart B and Subpart D programs and their payouts, Congress decided to put all claimants under DOL management and eliminate the necessity to pursue compensation from state systems. Now, all former DOE employees – whether they worked for DOE or a DOE contractor and whatever their medical claims – will be processed by DOL and paid by the federal government.

Subpart B, the original DOL program for victims with Beryllium Disease, radiation-related cancer or chronic silicosis, continues and remains the same. However, as Subpart D moves from DOE to DOL and out of the state systems, it will be retitled Subpart E, and a new compensation scale will be applied.

For Subpart E, the cap will be \$250,000. Claim approvals are not automatic and must be reviewed by a DOL committee. The causation standard remains the same as under Subpart D. If approved, all medical costs will be paid. If workers had permanent impairment, they are eligible for an additional \$2,500 for every percent point of impairment (i.e., if 12% impaired, \$2,500 times 12 = \$30,000). Also, if they were unable to maintain their income prior to age 65, they can receive \$10,000 for each year they failed to make 75 percent of their pre-illness income and \$15,000 for each year they failed to make 50 percent.

Eligible spouses and children (who were minor and dependent at the time) of workers who died due to a covered illness also can receive compensation, up to a maximum of \$175,000.

Cancer claims may be pursued in either or both subparts, but the total payout is capped at \$250,000.

"The bad news," says Dr. Jim Melius, LHSFNA Research Division Director, "is the amendment does not help building trades workers with their cancer claims. This is still a problem because of the lack of exposure records." Melius also noted that it will take some time to get the Subpart E program up and running.

The program's total estimated cost is \$10 billion over ten years.

Tens of thousands of workers built Cold War-era nuclear weapons or, later, cleaned-up waste left behind such weapons. They were not told of the dangers involved. In the 1990s, the DOE apologized, and Congress enacted the EEOICPA to provide compensation.

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