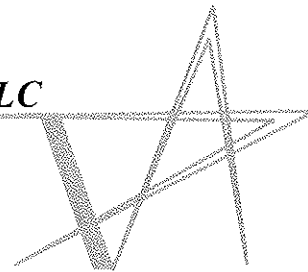


COMMONWEALTH ENVIRONMENTAL SERVICES, LLC

"A Native American - Woman Owned Company"



Fax Cover Sheet

To: U.S. Dept of Labor
ATTN: Pamila Burr

From: Gary S. Vander Boegh

Fax: (904) 357-4704

Date: 8/24/10

Phone: (270) 450- 0850

Pages: 6 Page including the Cover Sheet

Re: James Todd

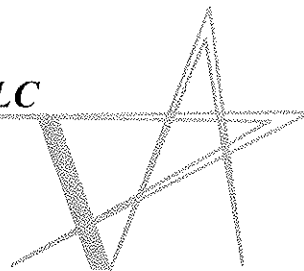
CC: Hon. Secretary Hilda Solis
Rachel Deiton

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Comments:

COMMONWEALTH ENVIRONMENTAL SERVICES, LLC

"A Native American - Woman Owned Company"



Gary Vander Boegh, Vice President
Commonwealth Environmental Services, LLC
4645 Village Square Drive, St. F
Paducah, Kentucky 42001
Telephone: (270) 450-0850
Facsimile: (270) 450-0858

August 24, 2010

U. S. Department of Labor,
DEEOIC
400 West Bay Street, Room 722
Jacksonville, FL 32202

Attention: Pamela Burr

Employee: James Todd
Claimant: Nettie Todd
File Number: XXX-XX-2764
CES: #0113

Dear Ms. Burr,

Commonwealth Environmental Services, LLC (CES) is in receipt of your letter dated August 16, 2010. I first want to state that we at CES are appalled at the effort of the Department of Labor (DOL) to conceal from the claimant the statutory requirements that entitle claimants, such as 87 year old Nettie Todd, from receiving her deceased husband's Part B and Part E entitlements.

Your DOL letter inappropriately indicates as follows:

B. To accept a claim for pre-January 1, 1993 CBD, the medical evidence must demonstrate that the employee was being treated for and/or diagnosed with a chronic respiratory disorder prior to January 1, 1993 and the medical documentation must include at least three of the following items:

- ***"A characteristic chest radiographic (x-ray) or computed tomography denoting abnormalities."***

When in fact the statutory requirements state as follows:

(13) The term "established chronic beryllium disease" means chronic beryllium disease as established by the following:

- (A) For diagnoses on or after January 1, 1993, beryllium sensitivity (as established in accordance with paragraph (8)(A)), together with lung pathology consistent with chronic beryllium disease, including—
- (i) a lung biopsy showing granulomas or a lymphocytic process consistent with chronic beryllium disease;
 - (ii) a computerized axial tomography scan showing changes consistent with chronic beryllium disease; or
 - (iii) pulmonary function or exercise testing showing pulmonary deficits consistent with chronic beryllium disease.

(B) For diagnoses before January 1, 1993, the presence of
(emphasis added)—

- (i) occupational or environmental history, or epidemiologic evidence of beryllium exposure; and
- (ii) any three of the following criteria:

(I) Characteristic chest radiographic (or computed tomography (CT)) abnormalities.

(II) Restrictive or obstructive lung physiology testing or diffusing lung capacity defect.

(III) Lung pathology consistent with chronic beryllium disease.

(IV) Clinical course consistent with a chronic respiratory disorder.

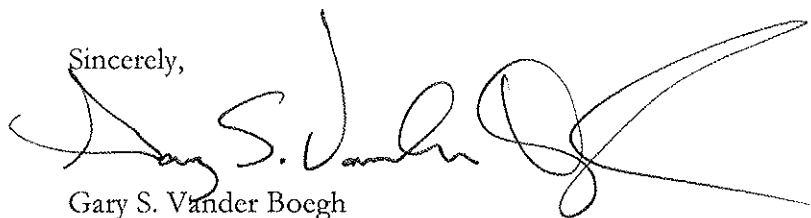
(V) Immunologic tests showing beryllium sensitivity (skin patch test or beryllium blood test preferred).

On behalf of the claimant Mrs. Todd, I hereby make further reference to her **compliance with the pre-1993** statutory requirements and therefore, do not intend provide any further documentation with regard to Mrs. Todd's Part B and E claim for compensation. It should be further noted that Mrs. Todd does not accept a the DOL's explanation that a DMC is required to link her husband's CBD illness to the PGDP, since she has met her statutory responsibilities per Title 42; Chapter 84; Subchapter XVI; Part B, § 7384l.

Please authorize the approval of Nettie Todd's claim for Part B compensation in the amount of \$150,000 and her Part E compensation in the amount of \$125,000 as the law mandates. **Failure to comply with the provisions of the Energy Employee Occupational Illness Program Act constitutes a violation of the Administrative Procedures Act.**

Please feel free to contact me at 270-559-1752 or 270-450-0850 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary S. Vander Boegh". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gary S. Vander Boegh
"Authorized Representative"
Vice President- Commonwealth Environmental Services, LLC.

Cc. Honorable Secretary of Labor Hilda Solis w/Attachments (202) 693-6111

1/ DOL letter dated August 16, 2010.

U.S. Department of Labor
200 Constitution Avenue, NW
Room S-2018
Washington, DC 20210

Director DEEOIC Rachel Leiton (202) 693-1465
Director OWCP Shelby Hallmark
FAB Final Adjudication Branch Chief LuAnn Kresley
FAB Assistant Director Thomasyne L. Hill
Claims Examiner – Pamela Burr

U.S. DEPARTMENT OF LABOR OFFICE OF WORKERS COMPENSATION PROGRAMS
DIVISION OF ENERGY EMPLOYEES COMPENSATION
400 WEST BAY STREET, SUITE 722
JACKSONVILLE, FL 32202
PHONE: (904) 357-4705 OR TOLL FREE: (877) 336-4272
FAX: (904) 357-4704



August 16, 2010

File No.: xxxxx-2764
Employee: James M. Todd
Claimant: Maxine N. Todd
Second Request

Gary Vander Boegh, Vice President
Commonwealth Environmental Services, LLC
4645 Village Square Drive, St. F
Paducah, KY 42001

RECEIVED
AUG 23 10
Maud G. Stevens

Dear Mr. Vander Boegh:

This letter is in reference to Ms. Todd's claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (the Act). On July 9, 2010, Ms. Todd expanded her claim for survivor benefits under the Act to include chronic beryllium disease (CBD) and pneumonia. Ms. Todd had previously filed a claim for survivor benefits under the Act for chronic obstructive pulmonary disease (COPD)/chronic bronchitis, prostate cancer, Kaposi's sarcoma, and Parkinson's disease on May 9, 2008.

On June 16, 2010, as the Authorized Representative for the claimant, you requested a reopening of Ms. Todd's claim for compensation under the Act for those conditions previously denied by Final Decision. *This is a follow-up to my letter dated July 16, 2010.*

Pneumonia: With regards to Ms. Todd's newly claimed conditions, I have a chest x-ray dated November 12, 1985, indicating that the employee had a left lower lobe pneumonia with effusion. Request that you submit addition medical records for the employee discussing his history of pneumonia after 1985.

Chronic Beryllium Disease (CBD): To establish CBD, there are different criteria depending on the date of diagnosis.

- a. If a diagnosis of CBD was made on or after January 1, 1993, you must submit an abnormal beryllium Lymphocyte Proliferation Test (LPT) and one (1) or more of the following:
 - A lung biopsy showing granulomas or a lymphocytic process consistent with chronic beryllium disease
 - A computerized axial tomography (CAT) scan showing changes consistent with chronic beryllium disease
 - A pulmonary function study or exercise tolerance test showing pulmonary deficits consistent with chronic beryllium disease.

For any test results, your physician must provide an opinion whether the findings are consistent with Chronic Beryllium Disease.

b. To accept a claim for pre-January 1, 1993 CBD, the medical evidence must demonstrate that the employee was being treated for and/or diagnosed with a chronic respiratory disorder prior to January 1, 1993 and the medical documentation must include **at least three** of the following items:

- A characteristic chest radiographic (x-ray) or computed tomography denoting abnormalities.
- A restrictive or obstructive lung physiology test or diffusion lung capacity defect
- A lung pathology report consistent with chronic beryllium disease
- A clinical course report consistent with chronic respiratory disease disorder
- Immunologic tests showing beryllium sensitivity (skin patch test or beryllium test).

For beryllium disease prior to January 1, 1993, a specific diagnosis of CBD is not required.

Although I have chest x-rays in the file from 1985, they will need to be evaluated by a District Medical Consultant (DMC) to determine if they meet the first criteria, i.e., "characteristic chest x-ray or CT abnormalities" as accepted under the Act. Request you provide any additional medical records for the employee identifying a lung condition prior to 1993.

Request that you provide the requested documentation by September 16, 2010. If you have any questions, please contact me toll free at (877)-336-4247.

Sincerely,



Pamela Burr
Claims Examiner

Cc: Maxine N. Todd

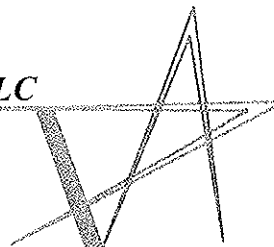
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Re: James Todd

CC: Hon. Secretary Hilda Solis
Rachel Beiton

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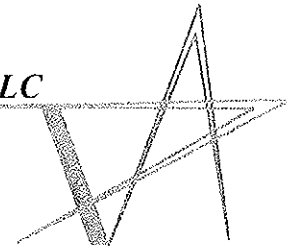
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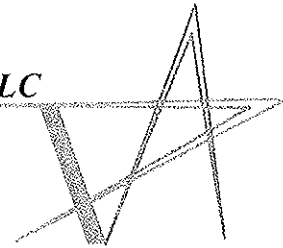
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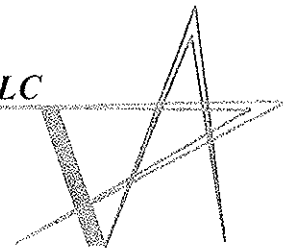
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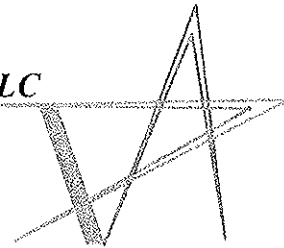
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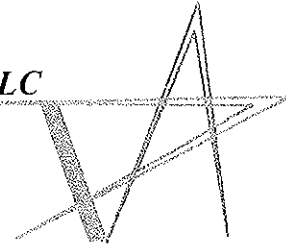
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