

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: (877) 336-4272 or (904) 357-4705
Fax: (904) 357-4704



File: XXXXX5260

Employee: [REDACTED]

[REDACTED]

Dear Ms. [REDACTED]

A copy of the attached correspondence is being sent to you as the designated authorized representative in this case.

Should you have any questions concerning the recommendation, you may call the Final Adjudication Branch (FAB); toll free, at 1(877) 336-4272.

Sincerely,


Raymond Murphy
Claims Examiner

U.S. Department of Labor

Office of Workers Compensation Programs
Division of Energy Employees Compensation
400 West Bay Street, Suite 722
Jacksonville, FL 32202



File Number: XXXXX5260

Employee: [REDACTED]

[REDACTED]

Dear Mr. [REDACTED]

Enclosed is the Notice of Recommended Decision of the District Office concerning your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The District Office recommends denial of your claim for restrictive lung disease and lung nodule under Part E of the EEOICPA. **Please note that this is only a RECOMMENDATION; this is not a FINAL Decision.** The Recommended Decision has been forwarded to the Final Adjudication Branch (FAB) for their review and issuance of the Final Decision.

Please read the Notice of Recommended Decision and Claimant Rights carefully. If you agree with the Recommended Decision and wish to waive any objections to it, you must follow the instructions for doing so provided in the section entitled "If You Agree with the Recommended Decision." If you submit or fax the attached Waiver Sheet (or a statement waiving the right to object) to the FAB, a final decision can be issued before the end of the sixty (60) day period for filing objections. The FAB address is:

If you disagree with the Recommended Decision, you must follow the instructions provided in the section entitled "If You Wish to Object to the Recommended Decision." Your objections must be filed within sixty (60) days from the date of the Recommended Decision by writing to the FAB at the address listed above

Should you have any questions concerning the recommendation, you may call the Final Adjudication Branch, toll free at 1(877) 336-4272.

If you would like to complete an anonymous customer service survey, please visit our web site at www.dol.gov/owcp/energy.

Sincerely,


Raymond Murphy
Claims Examiner

Cc: [REDACTED] Authorized Representative

Enclosures: Notice of Recommended Decision
Notice of Recommended Decision and Claimant Rights Waiver

U.S. Department of Labor

Office Of Workers' Compensation Programs
Division of Energy Employees
Compensation
400 West Bay Street, Suite 722
Jacksonville, FL 32202



EMPLOYEE: [REDACTED]

FILE NUMBER:

xxxxx-5260

NOTICE OF RECOMMENDED DECISION

This is a Recommended Decision of the District Office concerning your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (hereafter referred to as EEOICPA or the Act). For the reasons set forth below, the District Office recommends denial of your claim under Part E for the conditions of restrictive lung disease and lung nodule.

STATEMENT OF THE CASE

On December 24, 2012, you filed a claim for benefits under Part E of the Act, claiming that you developed restrictive lung disease as a result of your employment at a Department of Energy (DOE) facility.

On March 18, 2013, you added the condition of lung nodule under your Part E claim for benefits.

With your claim you submitted medical documents from Dr. Theo Powell from November 6, 2012, showing a diagnosis of restrictive lung disease.

The DOE confirmed your employment at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky as an Ironworker from April 5, 1972 until August 21, 1972. EE-4, employment history affidavits from Robert E. Peppers and Jimmie Terrell claimed you worked at Paducah in 1975 for Charles E. Story Construction Company. Your Social Security Administration records show employment at Charles E. Story Construction during periods of 1969, 1970, and 1973.

In a letter dated March 12, 2013, you were advised that toxic substance causation evidence was necessary for the condition of restrictive lung disease. You were afforded 30 days to provide the requested information.

In response, medical information from your visit to Western Baptist Hospital on January 14, 2013, was received.

A search of our toxic exposure database or Site Exposure Matrices (SEM) for toxic substances that may have a health effect relating to restrictive lung disease and lung nodule was conducted.

On March 28, 2013, District Office sent you a letter advising you that additional medical evidence was necessary to support your conditions were caused by your employment at Paducah. You were afforded 30 days to provide the requested information.

EXPLANATION OF FINDINGS

The issue for determination in this case is whether the evidence is sufficient to establish that your employment at a DOE facility was a significant factor in aggravating, contributing to, or causing your restrictive lung disease and lung nodule.

Under Part E of the Act, the evidence presented in a claim must establish that an employee's diagnosed condition is "at least as likely as not" that exposure to a toxic substance at a covered facility during a covered time period was a significant factor in aggravating, contributing to, or causing the employee's illnesses.

The medical records received with your claim, showed a diagnosis of restrictive lung disease and a lung nodule. However, the records did not contain any evidence that your claimed conditions were caused or aggravated by your exposure to toxic substances at Paducah.

The District Office sent you a letter on March 12, 2013 advising you that medical evidence showing causation was necessary to support your claim, including any evidence of toxic exposure or incidents related to your employment with DOE. You were afforded 30 days to provide the requested information.

In response, the District Office received medical information from your January 14, 2013, visit to Western Baptist Hospital. This hospital report did not contain evidence that your claimed conditions were related to toxic exposure due to your employment with the DOE.

A search of our toxic exposure database for toxic substances that may have a health effect relating to restrictive lung disease was conducted. The Site Exposure Matrices (SEM) acts as a repository of information related to toxic substances potentially present at covered DOE sites along with information on hazardous materials that can assist in evaluating causation.

There was no causal link found through SEM between your exposure to workplace toxins and the condition of restrictive lung disease or lung nodules.

The District Office reviewed the Document Acquisition Request (DAR). The DAR records did not show any workplace incidents or exposures to toxins that would be related to your claimed conditions.

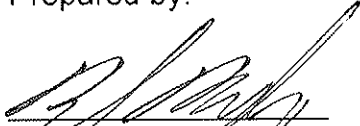
The District Office sent a follow-up letter dated March 28, 2013 stating that evidence of toxic exposure from your employment at the Paducah was necessary for the claimed conditions. You were afforded 30 days to provide the requested information. The District Office did not receive a response.

There is no evidence to support a causal link between your employment at Paducah and your claimed conditions. Therefore, your claim for benefits under Part E is recommended for denial due to insufficient evidence.

CONCLUSIONS OF LAW

The District Office recommends denial of your claim for restrictive lung disease and lung nodule under Part E of the Act.

Prepared by:



Raymond Murphy
Claims Examiner

Reviewed By:



Billie Johnston
Senior Claims Examiner

MAY 11 2012

Date

NOTICE OF RECOMMENDED DECISION AND CLAIMANT RIGHTS

The District Office has issued the attached recommended decision on your claim under the Energy Employees Occupational Illness Compensation Program Act. This notice explains how to file objections to the recommended decision. This notice also explains what to do if you agree with the recommended decision and want the Final Adjudication Branch (FAB) to issue a final decision before the 60-day period to object has ended. Read the instructions contained in this notice carefully.

IF YOU WISH TO OBJECT TO THE RECOMMENDED DECISION:

If you disagree with all or part of the recommended decision, you **MUST** file your objections to it within sixty (60) days from the date of the recommended decision by writing to the FAB at:

**U.S. Department of Labor, DEEOIC
Attn: Final Adjudication Branch
400 West Bay Street, Suite 63B
Jacksonville, Florida 32202
Fax #: (904) 357-4785**

If you want an informal oral hearing on your objections, at which time you will be given the opportunity to present both oral testimony and written evidence in support of your claim, you **MUST** request a hearing when you file your objections. **If you have special needs (e.g., physical handicap, dates unavailable, driving limitations, etc.) relating to the scheduling (time and location) of the hearing, those needs must be identified in your letter to the FAB requesting a hearing.** In the absence of such a special need request, the FAB scheduler will schedule the hearing and you will be notified of the time and place. If you do not include a request for a hearing with your objections, the FAB will consider your objections through a review of the written record, which will also give you the opportunity to present written evidence in support of your claim. If you fail to file any objections to the recommended decision within the 60-day period, the recommended decision will be affirmed by the FAB and your right to challenge it will be waived for all purposes.

IF YOU AGREE WITH THE RECOMMENDED DECISION:

If you agree with the recommended decision and wish for it to be affirmed in a final decision without change, you may submit a written statement waiving your right to object to it to the FAB at the above address. This action will allow the FAB to issue a final decision on your claim before the end of the 60-day period for filing objections. If you wish to object to only part of the recommended decision and waive any objections to the remaining parts of the decision, you may do so. In that situation, the FAB may issue a final decision affirming the parts of the recommended decision to which you do not object.

BE SURE TO PRINT YOUR NAME, FILE NUMBER AND DATE OF THE RECOMMENDED DECISION ON ANY CORRESPONDENCE SUBMITTED TO THE FAB.

Please be advised that the final decision on your claim may be posted on the agency's website if it contains significant findings of fact or conclusions of law that might be of interest to the public. If it is posted, your final decision will not contain your file number, nor will it identify you or your family members by name.

Date of Decision: MAY 4 2015
File Number: XXXXX5260
Employee: [REDACTED]

Final Adjudication Branch
U.S. Department of Labor, DEEOIC
Attn: District Manager
400 W. Bay Street, Suite 63B
Jacksonville, FL 32202

Dear Sir or Madam:

I, _____, being fully informed of my right to object to any of the findings of fact and/or conclusions of law contained in the Recommended Decision issued on my claim for compensation under the Energy Employees Occupational Illness Compensation Program Act, do hereby waive those rights.

Signature

Date