

Department of Justice

§ 79.16

(c) The Program will presume that an individual who resided or was employed on a full-time basis within the affected area was physically present during the time period of residence or full-time employment.

(d) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of a claimant's residence at one or more addresses or proof of full-time employment at one location within the affected area on any two dates less than three years apart during the period beginning on January 21, 1951, and ending on October 31, 1958, establishes the claimant's presence within the affected area for the period between the two dates reflected in the documentation submitted as proof of presence.

(e) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is before January 21, 1951, and another of which is within the specified time period, establishes the claimant's presence in the affected area between January 21, 1951, and the date within the specified time period, provided the dates are not more than three years apart.

(f) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is after October 31, 1958, and another which is within the specified time period, establishes the claimant's presence in the affected area between the date within the specified time period and October 31, 1958, provided the dates are not more than three years apart.

(g) For purposes of establishing eligibility under § 79.12(a)(2), the Program will presume that proof of residence or proof of full-time employment within the affected area at least one day during the period beginning June 30, 1962, and ending July 31, 1962, and proof of residence or proof of full-time employment at the same address within six months before June 30, 1962, and six months after July 31, 1962, establishes

the claimant's physical presence for the necessary one-month-and-one-day period.

(h) For purposes of establishing eligibility under § 79.12(a)(2), the Program will presume that proof of residence or full-time employment at the same address or location on two separate dates at least 14 days apart within the time period beginning June 30, 1962, and ending July 31, 1962, establishes the claimant's physical presence for the necessary one-month-and-one-day period.

(i) For purposes of establishing eligibility under § 79.12(a)(3), the claimant must establish, in accordance with § 79.33, that he or she participated on-site in the atmospheric detonation of a nuclear device.

§ 79.14 Proof of initial exposure prior to age 21.

(a) Proof of the claimant's date of birth must be established by the submission of any of the following:

- (1) Birth certificate;
- (2) Baptismal certificate;
- (3) Tribal records; or
- (4) Hospital records of birth.

(b) Absent any indication to the contrary, the Program will assume that the earliest date within the designated time period indicated on any records accepted by the Program as proof of the claimant's physical presence in the affected area or participation during a period of atmospheric nuclear testing was also the date of initial exposure.

§ 79.15 Proof of onset of leukemia more than two years after first exposure.

The Program will presume that the date of onset was the date of diagnosis as indicated in the medical documentation accepted by the Program as proof of the claimant's leukemia. The date of onset must be more than two years after the date of first exposure as determined under § 79.14(b).

§ 79.16 Proof of medical condition.

(a) Medical documentation is required in all cases to prove that the claimant suffered from or suffers from leukemia. Proof that the claimant contracted leukemia must be made either by using the procedure outlined in

paragraph (b) of this section or submitting the documentation required in paragraph (c) of this section.

(b) If a claimant was diagnosed as having leukemia in one of the States of Arizona, Colorado, Nevada, New Mexico, Utah or Wyoming, the claimant or eligible surviving beneficiary need not submit any medical documentation of disease at the time the claim is filed (although medical documentation may subsequently be required). Instead, the claimant or eligible surviving beneficiary must submit with the claim an Authorization To Release Medical and Other Information, valid in the state of diagnosis, that authorizes the Program to contact the appropriate state cancer or tumor registry. The Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of one type of leukemia. If the designated state does not possess medical records or abstracts of medical records that contain a verified diagnosis of leukemia, the Radiation Exposure Compensation Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit the medical documentation required in paragraph (c) of this section, in accordance with the provisions of § 79.72(b).

(c)(1) Proof that the claimant contracted leukemia may be made by the submission of one or more of the following contemporaneous medical records provided that the specified document contains an explicit statement of diagnosis or such other information or data from which appropriate authorities at the National Cancer Institute can make a diagnosis of leukemia to a reasonable degree of medical certainty:

- (i) Bone marrow biopsy or aspirate report;
- (ii) Peripheral white blood cell differential count report;
- (iii) Autopsy report;
- (iv) Hospital discharge summary;
- (v) Physician summary;
- (vi) History and physical report; or
- (vii) Death certificate, provided that it is signed by a physician at the time of death.

(2) If the medical record submitted does not contain sufficient information or data to make such a diagnosis, the Program will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit additional medical records identified in this paragraph, in accordance with the provisions of § 79.72(b). Any such additional medical documentation submitted must also contain sufficient information from which appropriate authorities at the National Cancer Institute can determine the type of leukemia contracted by the claimant.

Subpart C—Eligibility Criteria for Claims Relating to Certain Specified Diseases in an Affected Area

SOURCE: Order No. 2604–2002, 67 FR 51423, Aug. 7, 2002, unless otherwise noted.

§ 79.20 Scope of subpart.

The regulations in this subpart describe the criteria for eligibility for compensation under sections 4(a)(2) (A) and (B) of the Act and the evidence that will be accepted as proof of the various criteria. Sections 4(a)(2) (A) and (B) of the Act provide for a payment of \$50,000 to individuals who were exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period and who later developed one or more specified compensable diseases.

§ 79.21 Definitions.

(a) The definitions listed in § 79.11 (a) through (e) and (i) apply to this subpart.

(b) *Indication of disease* means any medically significant information that suggests the presence of a disease, whether or not the presence of the disease is later confirmed.

(c) *Leukemia, lung cancer, in situ lung cancer, multiple myeloma, lymphomas, Hodgkin's disease, primary cancer of the thyroid, primary cancer of the male breast, primary cancer of the female breast, primary cancer of the esophagus, primary cancer of the stomach, primary cancer of the pharynx, primary cancer of*