30.712 If OWCP reduces a fee, may a provider request reconsideration of the reduction?
30.713 If OWCP reduces a fee, may a provider bill the employee for the balance?

EXCLUSION OF PROVIDERS

30.715 What are the grounds for excluding a provider for payment under this part?
30.716 What will cause OWCP to automatically exclude a physician or other provider of medical services and supplies?
30.717 When are OWCP's exclusion procedures initiated?
30.718 How is a provider notified of OWCP's intent to exclude him or her?
30.719 What requirements must the provider's reply and OWCP's decision meet?
30.720 How can an excluded provider request a hearing?
30.721 How are hearings assigned and scheduled?
30.722 How are advisory opinions obtained?
30.723 How will the administrative law judge conduct the hearing and issue the recommended decision?
30.724 How can a party request review by OWCP of the administrative law judge's recommended decision?
30.725 What are the effects of non-automatic exclusion?
30.726 How can an excluded provider be reinstated?

AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 3716 and 3717; 42 U.S.C. 7384d, 7384t and 7384u; Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 4–2001, 66 FR 29656.

SOURCE: 67 FR 78886, Dec. 26, 2002, unless otherwise noted.

Subpart A—General Provisions

INTRODUCTION

§ 30.0 What are the provisions of the EEOICPA, in general?

The Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. 7384 *et seq.*, provides for the payment of compensation benefits to covered employees and, where applicable, survivors of such employees, of the United States Department of Energy (DOE), its predecessor agencies and certain of its contractors and subcontractors. It also provides for the payment of compensation to certain persons already found eligible for benefits under section 5 of the Radiation Exposure Compensation Act, as amended (RECA), 42 U.S.C. 2210 note, and where applicable, survivors of such employees. The regulations in this part describe the rules for filing, processing, and paying claims for benefits under the EEOICPA.

(a) The EEOICPA provides for the payment of either monetary compensation for the disability of a covered employee due to an occupational illness or for monitoring for beryllium sensitivity, as well as for medical and related benefits for such illness.

(b) All types of benefits and conditions of eligibility listed in this section are subject to the provisions of the EEOICPA and of this part.

§ 30.1 What rules govern the administration of the EEOICPA and this chapter?

In accordance with the EEOICPA, Executive Order 13179 and Secretary's Order No. 4–2001, the primary responsibility for administering the Act, except for those activities assigned to the Secretary of Health and Human Services, the Secretary of Energy and the Attorney General, has been delegated to the Assistant Secretary of Labor for Employment Standards. The Assistant Secretary, in turn, has delegated the responsibility for administering the Act to the Director of the Office of Workers' Compensation Programs (OWCP). Except as otherwise provided by law, the Director of OWCP and his or her designees have the exclusive authority to administer, interpret and enforce the provisions of the Act.

§ 30.2 In general, how have the tasks associated with the administration of the EEOICPA claims process been assigned?

(a) In E.O. 13179, the President assigned various tasks associated with the administration of the EEOICPA claims process among the Secretaries of Labor, Health and Human Services and Energy, and the Attorney General. In light of the fact that the Secretary of Labor has been assigned primary responsibility for administering the EEOICPA, almost the entire claims process is within the exclusive control of OWCP. This means that claimants file their claims with OWCP, and OWCP is responsible for granting or denying compensation under the Act (see §§ 30.100, 30.101, and 30.505 through

30.513). OWCP also provides assistance to claimants and potential claimants by providing information regarding eligibility and other program requirements, including information on completing claim forms and the types and availability of medical testing and diagnostic services related to covered illnesses. In addition, OWCP provides an administrative review process for claimants who disagree with its recommended and final adverse decisions (see §§30.300 through 30.320).

(b) However, HHS has exclusive control of a portion of the claims process involving certain cancer claims, and is therefore responsible for providing reconstructed doses for these claims (see §30.115). HHS has also promulgated regulations at 42 CFR part 81 establishing the guidelines that OWCP must follow to assess the likelihood that an individual with cancer sustained the cancer in the performance of duty (see §30.210). DOE and DOJ are responsible for, among other tasks, notifying potential claimants and submitting evidence that OWCP deems necessary for its adjudication of claims under the EEOICPA (see §§30.105, 30.106, and 30.111).

§30.3 What do these regulations contain?

This part 30 sets forth the regulations governing administration of all claims that are filed with OWCP, except to the extent specified in certain provisions. Its provisions are intended to assist persons seeking benefits under the EEOICPA, as well as personnel in the various federal agencies and DOL who process claims filed under the EEOICPA or who perform administrative functions with respect to the EEOICPA. The various subparts of this part contain the following:

(a) Subpart A: the general statutory and administrative framework for processing claims under the EEOICPA. It contains a statement of purpose and scope, together with definitions of terms, information regarding the disclosure of OWCP records, and a description of rights and penalties under the EEOICPA, including convictions for fraud.

(b) Subpart B: the rules for filing claims for benefits under the EEOICPA. It also addresses general standards regarding necessary evidence and the burden of proof, descriptions of basic forms and special procedures for certain cancer claims.

(c) Subpart C: the eligibility criteria for conditions covered by the EEOICPA.

(d) Subpart D: the rules governing the adjudication process leading from recommended to final decisions made on claims filed under the EEOICPA. It also describes the hearing and reopening processes.

(e) Subpart E: the rules governing medical care, second opinion and referee medical examinations directed by OWCP, and medical reports and records in general. It also addresses the kinds of treatment that may be authorized and how medical bills are paid.

(f) Subpart F: the rules relating to the payment of monetary compensation. It includes the provisions for identifying and processing overpayments of compensation.

(g) Subpart G: the rules concerning legal representation of claimants before OWCP, subrogation of the United States, and the effect of tort suits against beryllium vendors and atomic weapons employers.

(h) Subpart H: information for medical providers. It includes rules for medical reports, medical bills, and the OWCP medical fee schedule, as well as the provisions for exclusion of medical providers.

DEFINITIONS

§30.5 What are the definitions used in this part?

(a) *Act or EEOICPA* means the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (42 U.S.C. 7384 *et seq.*).

(b) *Atomic weapon* means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principle purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) *Atomic weapons employee* means an individual employed by an atomic weapons employer during a period