

§ 850.40

include, but is not limited to, a unique identifier, date of birth, gender, site, job history, medical screening test results, exposure measurements, and results of referrals for specialized medical evaluations.

§ 850.40 Performance feedback.

(a) The responsible employer must conduct periodic analyses and assessments of monitoring activities, hazards, medical surveillance, exposure reduction and minimization, and occurrence reporting data.

(b) To ensure that information is available to maintain and improve all elements of the CBDPP continuously, the responsible employer must give results of periodic analyses and assessments to the line managers, planners, worker protection staff, workers, medical staff, and labor organizations representing beryllium-associated workers who request such information.

APPENDIX A TO PART 850—CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM INFORMED CONSENT FORM

I, _____ have carefully read and understand the attached information about the Be-LPT and other medical tests. I have had the opportunity to ask any questions that I may have had concerning these tests.

I understand that this program is voluntary and I am free to withdraw at any time from all or any part of the medical surveillance program. I understand that the tests are confidential, but not anonymous. I understand that if the results of any test suggest a health problem, the examining physician will discuss the matter with me, whether or not the result is related to my work with beryllium. I understand that my employer will be notified of my diagnosis only if I have a beryllium sensitization or chronic beryllium disease. My employer will not receive the results or diagnoses of any health conditions not related to beryllium exposure.

I understand that, if the results of one or more of these tests indicate that I have a health problem that is related to beryllium, additional examinations will be recommended. If additional tests indicate I do have a beryllium sensitization or CBD, the Site Occupational Medical Director may recommend that I be removed from working with beryllium. If I agree to be removed, I understand that I may be transferred to another job for which I am qualified (or can be trained for in a short period) and where my beryllium exposures will be as low as possible, but in no case above the action level.

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I will maintain my total normal earnings, seniority, and other benefits for up to two years if I agree to be permanently removed.

I understand that if I apply for another job or for insurance, I may be requested to release my medical records to a future employer or an insurance company.

I understand that my employer will maintain all medical information relative to the tests performed on me in segregated medical files separate from my personnel files, treated as confidential medical records, and used or disclosed only as provided by the Americans with Disability Act, the Privacy Act of 1974, or as required by a court order or under other law.

I understand that the results of my medical tests for beryllium will be included in the Beryllium Registry maintained by DOE, and that a unique identifier will be used to maintain the confidentiality of my medical information. Personal identifiers will not be included in any reports generated from the DOE Beryllium Registry. I understand that the results of my tests and examinations may be published in reports or presented at meetings, but that I will not be identified.

I consent to having the following medical evaluations:

- // Physical examination concentrating on my lungs and breathing
// Chest X-ray
// Spirometry (a breathing test)
// Blood test called the beryllium-induced lymphocyte proliferation test or Be-LPT
// Other test(s). Specify:

Signature of Participant: _____

Date: _____

I have explained and discussed any questions that the employee expressed concerning the Be-LPT, physical examination, and other medical testing as well as the implications of those tests.

Name of Examining Physician: _____

Signature of Examining Physician: _____

Dated: _____

PART 852—GUIDELINES FOR PHYSICIAN PANEL DETERMINATIONS ON WORKER REQUESTS FOR ASSISTANCE IN FILING FOR STATE WORKERS' COMPENSATION BENEFITS

- Sec. 852.1 What is the purpose and scope of this part?
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- 852.3 How does an individual obtain and submit an application for review and assistance?
- 852.4 What information and materials does an individual submit as a part of the application for review and assistance?
- 852.5 What information and materials may an employer submit in response to a submission of an application to a Physician Panel?
- 852.6 Which applications are submitted to a Physician Panel?
- 852.7 What provisions are set forth in State Agreements?
- 852.8 How does a Physician Panel determine whether an illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility?
- 852.9 What materials must a Physician Panel review prior to making a determination?
- 852.10 How may a Physician Panel obtain additional information or a consultation that it needs to make a determination?
- 852.11 How is a Physician Panel to carry out its deliberations and arrive at a determination?
- 852.12 How must a Physician Panel issue its determination?
- 852.13 When must a Physician Panel issue its determination?
- 852.14 What precautions must each Physician Panel member and each specialist take in order to keep an applicant's personal and medical information confidential?
- 852.15 What actions must a Physician Panel member take if that member has a potential conflict of interest in relation to a specific application?
- 852.16 When may the Program Office ask a Physician Panel to reexamine an application that has undergone prior Physician Panel review?
- 852.17 Must the Program Office accept the determination of a Physician Panel?
- 852.18 Is there an appeals process?
- 852.19 What is the effect of the acceptance by the Program Office of a determination by a Physician Panel in favor of an applicant?

AUTHORITY: 42 U.S.C. 7384, *et seq.*; 42 U.S.C. 2201 and 7101, *et seq.*; 50 U.S.C. 2401 *et seq.*

SOURCE: 67 FR 52853, Aug. 14, 2002, unless otherwise noted.

§ 852.1 What is the purpose and scope of this part?

(a) This part implements Part D of the Act by establishing the procedures under which:

(1) An individual may obtain and submit an application to the Program Office for review and assistance;

(2) The Program Office processes and submits eligible applications to a Physician Panel;

(3) Physician Panels determine whether the illness or death of a DOE contractor employee arose out of and in the course of employment by a DOE contractor and through exposure to a toxic substance at a DOE facility;

(4) The Program Office processes a determination by a Physician Panel; and,

(5) Appeals may be undertaken.

(b) This part covers applications filed by or on behalf of a DOE contractor employee, or a deceased employee's estate or survivor, with respect to an illness or death of a DOE contractor employee that may have been caused by exposure to a toxic substance during the course of employment at a DOE facility.

(c) All actions under this part must be pursuant to the relevant State Agreement and consistent with its terms and conditions.

§ 852.2 What are the definitions of terms used in this part?

Act means the Energy Employees Occupational Illness Compensation Program Act of 2000, 42 U.S.C. 7384 *et seq.*

Applicant means an individual seeking assistance from the Program Office in filing a claim with the relevant State workers' compensation system, including but not limited to, a living DOE contractor employee, the estate of a deceased DOE contractor employee, or any survivor of a deceased DOE contractor employee who is eligible to apply for a death benefit or a survivor's benefit under the State workers' compensation system for which the applicant is seeking assistance in filing a claim.

DOE means the U.S. Department of Energy, and its predecessor agencies, including the Manhattan Engineering District, the Atomic Energy Commission, and the Energy Research and Development Administration.

DOE contractor employee means any of the following:

(a) An individual who is or was in residence at a DOE facility as a researcher for one or more periods aggregating at least 24 months.