

**§ 30.101 In general, how is a survivor's claim filed?**

(a) A survivor of an employee who sustained an occupational illness or a covered illness must file a claim for compensation in writing. Form EE-2 should be used for this purpose, but any written communication that requests survivor benefits under the Act will be considered a claim. It will, however, be necessary for a survivor to submit a Form EE-2 for OWCP to fully develop the claim. Copies of Form EE-2 may be obtained from OWCP or on the Internet at <http://www.dol.gov/esa/regs/compliance/owcp/eoicp/main.htm>. The survivor's claim must be filed with OWCP, but another person may do so on the survivor's behalf. Although only one survivor needs to file a claim under this section to initiate the development process, OWCP will distribute any monetary benefits payable on the claim among all eligible surviving beneficiaries who have filed claims with OWCP.

(b) A survivor may choose, at his or her own option, to file for benefits for only certain conditions that are potentially compensable under the Act (*e.g.*, the survivor may not want to claim for an occupational illness or a covered illness for which a payment has been received that would necessitate an offset of EEOICPA benefits under the provisions of § 30.505(b) of these regulations). The survivor may withdraw his or her claim by so requesting in writing to OWCP at any time before OWCP determines his or her eligibility for benefits.

(c) A survivor must be alive to receive any payment under EEOICPA; there is no vested right to such payment.

(d) Except as provided in paragraph (e) of this section, a survivor's claim is considered to be "filed" on the date that the survivor mails his or her claim to OWCP, as determined by postmark, or the date that the claim is received by OWCP, whichever is the earliest determinable date. However, in no event will a survivor's claim under Part B of the Act be considered to be "filed" earlier than July 31, 2001, nor will a survivor's claim under Part E of the Act be considered to be "filed" earlier than October 30, 2000.

(1) The survivor, or the person filing the claim on behalf of the survivor, shall affirm that the information provided on the Form EE-2 is true, and must inform OWCP of any subsequent changes to that information.

(2) Except for the survivor of a covered uranium employee claiming under Part B of the Act, the survivor is responsible for submitting, or arranging for the submission of, evidence to OWCP that establishes that the employee upon whom the survivor's claim is based was eligible for such benefits, including medical evidence that establishes that the employee sustained an occupational illness or a covered illness. This required medical evidence is described in § 30.114 and does not refer to mere recitations by the survivor of symptoms the employee experienced that the survivor believes indicate that the employee sustained an occupational illness or a covered illness.

(e) For those claims under Part E of EEOICPA that were originally filed with DOE as claims for assistance under former section 7385o of EEOICPA (which was repealed on October 28, 2004), a claim is considered to be "filed" on the date that the survivor mailed his or her claim to DOE, as determined by postmark, or on the date that the claim was received by DOE, whichever is the earliest determinable date. However, in no event will a claim referred to in this paragraph be considered to be "filed" earlier than October 30, 2000.

(f) A spouse or a child of a deceased DOE contractor employee or RECA section 5 uranium worker, who is not a covered spouse or covered child under Part E, may submit a written request to OWCP for a determination of whether that deceased DOE contractor employee or RECA section 5 uranium worker contracted a covered illness under section 7385s-4(d) of EEOICPA.

(1) Any such request submitted pursuant to paragraph (f) of this section will not be considered a survivor's claim for benefits under Part E of the Act.

(2) As part of its consideration of any request submitted pursuant to paragraph (f) of this section, OWCP will apply the eligibility criteria in subpart

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C of this part. However, the adjudicatory procedures contained in subpart D of this part will not apply to OWCP's consideration of such a request, and OWCP's response to the request will not constitute a final agency decision on entitlement to any benefits under EEOICPA.

**§ 30.102 In general, how does an employee file a claim for additional impairment or wage-loss under Part E of EEOICPA?**

(a) An employee previously awarded impairment benefits by OWCP may file a claim for additional impairment benefits. Such claim must be based on an increase in the employee's minimum impairment rating attributable to the covered illness or illnesses from the impairment rating that formed the basis for the last award of such benefits by OWCP. OWCP will only adjudicate claims for such an increased rating that are filed at least two years from the date of the last award of impairment benefits. However, OWCP will not wait two years before it will adjudicate a claim for additional impairment that is based on an allegation that the employee sustained a new covered illness.

(b) An employee previously awarded wage-loss benefits by OWCP may be eligible for additional wage-loss benefits for periods of wage-loss that were not addressed in a prior claim only if the employee had not reached his or her Social Security retirement age at the time of the prior award. OWCP will adjudicate claims filed on a yearly basis in connection with each succeeding calendar year for which qualifying wage-loss under Part E is alleged, as well as claims that aggregate calendar years for which qualifying wage-loss is alleged.

(c) Employees should use Form EE-10 to claim for additional impairment or wage-loss benefits under Part E of EEOICPA.

(1) The employee, or the person filing the claim on behalf of the employee, shall affirm that the information provided on Form EE-10 is true, and must inform OWCP of any subsequent changes to that information.

(2) The employee is responsible for submitting with any claim filed under this section, or arranging for the sub-

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mission of, factual and medical evidence establishing that he or she experienced another calendar year of qualifying wage-loss, and/or medical evidence establishing that he or she has an increased minimum impairment rating, as appropriate.

**§ 30.103 How does a claimant make sure that OWCP has the evidence necessary to process the claim?**

(a) Claims and certain required submissions should be made on forms prescribed by OWCP. Persons submitting forms shall not modify these forms or use substitute forms.

Form No.	Title
(1) EE-1 ..	Claim for Benefits Under the Energy Employees Occupational Illness Compensation Program Act.
(2) EE-2 ..	Claim for Survivor Benefits Under the Energy Employees Occupational Illness Compensation Program Act.
(3) EE-3 ..	Employment History for a Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(4) EE-4 ..	Employment History Affidavit for a Claim Under the Energy Employees Occupational Illness Compensation Program Act.

(b) Copies of the forms listed in this section are available for public inspection at the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. They may also be obtained from OWCP district offices and on the Internet at <http://www.dol.gov/esa/regs/compliance/owcp/eeoicp/main.htm>.

**VERIFICATION OF ALLEGED EMPLOYMENT**

**§ 30.105 What must DOE do after an employee or survivor files a claim?**

(a) After it receives a claim for benefits described in §§30.100 or 30.101, OWCP may request that DOE verify the employment history provided by the claimant. Upon receipt of such a request, DOE will complete Form EE-5 as soon as possible and transmit the completed form to OWCP. On this form, DOE will certify either that it concurs with the employment history provided by the claimant, that it disagrees with such history, or that it can neither concur nor disagree after making a reasonable search of its records and also making a reasonable effort to