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Cc: Chen, Jihong (Jane) (CDC/NIOSH/EID) (CTR)
Subject: 194 - Ten-Year Review of the NIOSH Radiation Dose Reconstruction Program Comments

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Comments
Part B Statistics â€œ February 2010

The statistics below provide insight regarding the rate at which Part B individual dose reconstruction claimants have been able to challenge denied claims successfully as of February 2010. The data received from the DOL ombudsmanâ€™s office indicates the following:

As of February 1, 2010, DEEOIC has identified 611 total cases from the beginning of the program that were denied for a probability of causation of less than 50% and then were eventually accepted for a PoC of greater than or equal to 50%. Of these 611 claims, 334 were based on a DEEOIC initiation of a review or rework based on the issuance of a NIOSH Program Evaluation Report or a Program Evaluation Plan. The DEEOIC database is not constructed to track statistics on the remaining 277 claims that were initially denied and subsequently were accepted. Additionally, the break down also indicates the following:

Of the 611 reversals:

â€¢ 318 were based on PEP

â€¢ 16 were based on PER

â€¢ 151 were based on a rework; of those 151 reversals based on a rework
62 were reversed based on an appeal initiated by the claimant

â€¢ 126 were based on a remand + rework; of those 126 reversals based on a
remand + rework 78 were reversed based on an appeal initiated by the claimant

â€¢ Of the 277 reversals based on a rework or a remand + rework â€œ only
140 cases were reversed based on appeals initiated by the claimant.

â€¢ Accordingly, of the 23,125 dose reconstruction reports submitted to
DEEOIC only 140 claimants were able to challenge the denial successfully by an appeal that the claimant
initiated = .6%.

Significantly the overall rate of reversal on dose reconstructions as of February 2010 = 2.6% (based on
the February 2010 statistics DCAS provided to the Advisory Board in February 2010 that as of
December 31, 2009 â€œ
23,125 dose reconstruction reports were submitted to DEEOIC).

That's a disturbingly low number but not surprising considering the inability to understand a dose reconstruction report and therefore the inability of an individual claimant to challenge the information used in that report that the DEEOIC uses to eventually deny the claim.

Furthermore, the small amount of reversals based on "appeals" which is 140 as of the February 2010, those reversals seem to be based on claimants providing new info based on medical evidence or employment evidence -- and not on a claimant's actual ability to decipher the incomprehensible information contained in a dose reconstruction report. The Part B program is being functionally administered by health physicists for comprehension by health physicists and not for claimants. This is not a program that is claimant friendly as it provides claimants the functional ability to appeal a denied claim in name only. This is the most fundamental reason why the Part B program denies claimants basic due process.

Thank you,
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