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From: Romaka,Bill [bromaka@ufanyc.org]
Sent: Monday, March 28, 2011 3:06 PM
To: NIOSH Docket Office (CDC)
Subject: Response to Request for Information on Conditions Relating to Cancer - NIOSH Docket #227

To Whom It May Concern,

As I write this, I am once again being informed of yet another highly probable WTC-Related Line of Duty Death of a Firefighter at age 52. This death, like many previous, will once again be certified by Independent doctors and the FDNY Pension Board, made up of NYC Government officials and union representatives as World Trade Center related by medical evidence. Yet, our great Nation and Federal Government prefers to delay and wait until the future before making a determination for reasons it won't fully acknowledge. THIS is a National Disgrace!

Bill Romaka, Uniformed Firefighters Association Sergeant-at-Arms/Health and Safety Officer

The NYS WTC Bill and Cancer

To properly understand the New York State WTC Bill and its history of relevance to Cancer, you have to start by understanding the NYC Firefighters Cancer Presumption Law, titled "NYS General Municipal Law 207-kk, Disabilities of Firefighters in Certain Cities caused by Cancer." This law contains the following sections:

- (i) any condition of Cancer affecting the lymphatic, digestive, hematological, urinary, neurological, breast, reproductive, or prostate systems or
- (ii) melanoma resulting in total or partial disability or death to a paid member of a fire department in a city with a population of one million or more, who successfully passed a physical examination on entry into the service of such department, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that it was incurred in the performance and discharge of duty unless the contrary can be proved by competent evidence.....*

*This presumptive bill was based upon showing firefighters with an increase occurrence of these Cancers in the performance of their duties due to their known occupational hazard of being exposed to carcinogens and the products of combustion.

After 9/11, there was a great fear of what the future might have in store for our first responders, just as the Japanese are currently filled with trepidation for what their countrymen and women are experiencing and what their future may entail.

With this concern in mind and much posturing to do what is right, a power struggle ensued with the NYC Government looking to shield itself from liability and the medical community, the responders and their Unions working to get needed protections in place. After years of discussion and input, in late summer of 2005 the New York State WTC Presumptive Law became the law of the land. Its metamorphous came about as a collaboration of all the stakeholders and government leaders.

Acknowledging that not all that needed to be known was apparent, New York's Governor also set up a committee entitled "The 9/11 Workers Protection Task Force". This committee consisted of WTC involved Doctors, OSHA representatives, City and State government officials, lawyers and labor representatives. Recommendations from this Committee have been the basis for minor adjustments to the Bill to cover the Bill's proper intent.

The following is a synopsis taking from New York State Comptroller Thomas P. DiNapoli's undated brochure on the law:

Effective Immediately

New York State Retirement and Social Security Law provides those who participated in the World Trade Center rescue, recovery or clean up efforts a presumption that, if you become permanently disabled due to certain qualifying conditions and are unable to perform your job, the condition was incurred in connection with the World Trade Center aftermath.* This means that unless it can be proven that the medical condition was the result of other factors, you can claim it was the result of your participation in the events of September 11th and after. You may be eligible for a disability retirement or your beneficiaries may be eligible for an accidental death benefit.

***Qualifying conditions include:** upper respiratory tract (conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal chord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions); lower respiratory tract (bronchitis, asthma, reactive airway dysfunction syndrome and various forms of pneumonitis – hypersensitivity, granulomatous, or eosinophilic); psychological (post-traumatic stress disorder, anxiety, depression, or any combination of these conditions); skin (contact dermatitis or burns, infectious, irritant, allergic, idiopathic or non-specific in nature, caused by exposure or aggravated by exposure); **and new onset diseases (resulting from exposure as such diseases may occur in the future including cancer,** chronic obstructive pulmonary disease, asbestos-related diseases, heavy metal poisoning, musculoskeletal disease and chronic psychological diseases).

It should be noted that *only* members whose applications were certified as responders by their employers and met the time and location elements are eligible for such Pension benefits.

As I have mentioned in the past, and it needs to be reinforced here, civilian employees who achieve workers compensation benefits (though we know and understand that the City controverts all their claims and they linger longer than they should), also received their medications and treatment paid in full since their exposures have now been affirmed as work related. Uniformed workers (Firefighters, Fire Officers, Police, Detectives etc.) might get coverage for their pension purposes, but there is *no* payment or assistance in covering their job related treatment and prescriptions since the City is self insured.

The gathering of evidence and comments about suspected and confirmed Cancers seems to be a never ending process meant more to put off any decision well in to the future. Does our Federal Government really want to be remembered more about what it didn't do, than what it did?

NIOSH already has a history of covering Cancer under its Special Exposure Cohort (SEC) and Energy Employees Occupational Illness Compensation Program Act (EEOICPA) once provisions of eligibility have been met. Certain Cancers start to be covered in as little as 3 years after exposure. Its provision further states the following:

b. Medical Care. An employee who meets the statutory conditions of coverage is entitled to prospective medical care required to cure, give relief, or reduce the degree or period of disability. Provider charges associated with the treatment of an accepted medical condition will be paid from the compensation fund and are subject to a fee schedule.

In our many trips to Washington, DC to discuss and explain the plight of our responders, I was amazed that the further we get away from 9/11, the more empathy is exhibited by our members of Congress! "Never Forget" has to be more than just words! The time is way past due!!!

Current Events:

(1) While the merits will be debated, and NIOSH will take public comments about Cancer, the FDNY Community will continue to tend its membership in their time of need.

This morning, as we are made aware of yet another firefighter (47 years old, married with 3 young kids) being diagnosed with Lymphoma, we now have **5 firefighters/fire officers diagnosed with Non-Hodgkin's Lymphoma/Leukemia in the last 3 weeks.**

Eight of our last 10 WTC related deaths (as certified, or to be certified by the Pension Boards and independent Doctors) in the last few months, all were assigned and worked in Manhattan on that fateful day!

Coincidence? Scientifically insignificant? The bodies, and our frustration, are piling up!

(2) The World will be watching as the Japanese government will no doubt do the “right thing” for its responders and their families. The comparisons will be stark as to how the 9/11 responders have NOT had their Cancers covered and are leaving these families to their own resources (many have to have the firehouses conduct fundraising events to help with the excessive cost of medications, or go into debt).

The real question is “Does our government and the scientific community really believe that being exposed to so many irritants and carcinogens really has nothing to do with Cancer? Or, is it just more politically expedient to wait until the government and scientific community feels a sufficient number of firefighters, police officers and other responders have succumbed to the horrors of Cancer, before THE RIGHT policy can be put into place?”

Now, the World is watching!

(3) This past weekend, our firefighters received a letter from our Catastrophic Carrier, MARSH, entitled, IMPORTANT NOTICE. In this letter they state “...While doing so, **this valuable program has been experiencing significant losses over the last couple of years due to a high volume of claims.**” It further states as of May 1st, there will be a 10% premium rate increase. Note that this is a voluntary program and rates are dependent upon age groups.

(4) So let’s recap our most recent past. 4 firefighters/fire officers diagnosed with Non-Hodgkin’s Lymphoma and 1 with Leukemia in the LAST 3 WEEKS!!! 8 of the last 10 FDNY WTC-Related Line of Duty Deaths in the last few months (as determined by independent doctors and the Pension Board made up of government and union representatives) were all assigned to Manhattan fire companies and worked on 9/11. In our members’ efforts to keep from going into debt, many have secured a Catastrophic Policy whose rates are going up 10% because of the increase in usage of this policy (to be clear this policy only covers “usual and medically necessary” procedures and has a very high deductible.)

(5) In a Pearl River Patch story by George Hoehmann entitled, “FDNY Lieutenant Randy Wiebicke: A Hero Taken From Us Too Soon”, dated 3/22/11, Randy’s widow Madeline Wiebecke stated the following:

“When we were at Sloane and Hackensack, the doctors all would tell us how they have been treating many firefighters and police officers in their 30’s and 40’s facing blood

Cancers which are the first to develop after environmental exposure. We knew from the nurses how many patients were being treated and how they spoke about a link. Unfortunately, I know many others who were at ground zero who died from myeloma; like fireman Roy Chelsen who lived in Warwick and died two months ago, his story was very similar to that of Randy. I am afraid that the cancers like the one Randy had are just the leading edge for others who survived.”

WHERE IS THE COMMON SENSE? WHERE IS THE COMPASSION? IT MAY TAKE 20 YEARS FOR “OUR GOVERNMENT” TO GET THE SCIENTIFIC EVIDENCE THEY DESIRE – WHO DOES THAT HELP???? IT DOESN’T HELP THE RESPONDERS! DO YOU SERIOUSLY BELIEVE THAT JAPAN WILL WAIT BEYOND 10 YEARS TO HAVE THE “SCIENTIFIC EVIDENCE” THAT MANY WILL DIE FROM THEIR RADIATION EXPOSURE? WHY IS NOT THE UNIQUENESS OF 9/11 BEING TAKEN INTO CONSIDERATION BY OUR GOVERNMENT? OUR FIREFIGHTERS AND FIRE OFFICERS HAVE WELL DOCUMENTED EXPOSURES AND WERE MEDICALLY CLEARED TO PERFORM THEIR DUTIES, AS WERE OTHER RESPONDERS. SCIENCE AND EPIDEMIOLOGY IS BASED UPON THE SEER PRINCIPAL, WHO’S LAST 2 LETTERS MEAN “END RESULT”. NEWSFLASH – THE “END RESULT” IS KNOWN, AND MANY RESPONDERS WILL BE DEAD. IT’S WHAT WE DO FOR THEM WHILE THEY ARE ALIVE WHICH IS WHAT SHOULD BE IMPORTANT! WHERE IS THERE A PERSON IN POWER WHO WILL SHOW THE WORLD THAT OUR COUNTRY CAN DO WHAT IS RIGHT? WHY DO WE CONSTANTLY HAVE TO BEG FOR THE RIGHT THING TO BE DONE? IS THE ONLY REAL SCIENTIFIC EVIDENCE DEAD FIREFIGHTERS, FIRE OFFICERS, POLICE OFFICERS AND OTHER RESPONDERS?

*Please note that I am a member of the “WTC Medical Monitoring and Treatment Steering Committee”, and had regularly attended meetings of the “9/11 Workers Protection Task Force”.

Respectfully submitted,

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