

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
P.O. Box 8306
London, KY 40742-8306

**EEOICPA BULLETIN NO. 24-01**

Issue Date: January 30, 2024

Effective Date: January 30, 2024

Expiration Date: January 30, 2025

Subject: Updated Criteria for Establishing Beryllium Sensitivity

Background: The Division of Energy Employees Occupational Illness Compensation (DEEOIC) currently administers a statutory standard for Part B claimants who submit claims for beryllium sensitivity. The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) stipulates that coverage under Part B extends to employees that meet the statutory definition of a “covered beryllium employee” and present evidence of either one beryllium lymphocyte proliferation test (BeLPT) or one beryllium lymphocyte transformation test (BeLTT), performed on blood or lung lavage cells, which shows abnormal or positive findings. A claimant can also establish beryllium sensitivity by submitting the results of one beryllium patch test, which shows a positive reaction. An employee who meets these criteria under Part B, and worked as a DOE contractor or subcontractor, would also qualify for coverage under Part E.

On December 22, 2023, H.R. 2670, National Defense Authorization Act (NDAA) was signed into law. This new law, in part, includes a statutory change to the EEOICPA, in relation to the establishment of beryllium sensitivity under Part B. In addition to the existing statutory provisions, beryllium sensitivity under Part B can now also be established by submitting three borderline BeLPT or BeLTT performed on blood cells that are conducted over a period of three years. As such, this bulletin will update DEEOIC procedures to align to the new statutory provision for establishing Part B claims for beryllium sensitivity. With the passage of the NDAA, the statutory change to EEOICPA must be considered in addition to the existing administrative regulatory provisions about the establishment of beryllium sensitivity.

References: 42 U.S.C. § 7384l(8)(A); Federal (EEOICPA) Procedure Manual (v8.0).

Purpose: To update DEEOIC procedures concerning Part B claims for beryllium sensitivity.

Applicability: All staff.

Actions:

1. Upon receipt of a Part B claim for beryllium sensitivity, the Claims Examiner (CE) will determine whether the medical evidence includes:
 - a. One BeLPT or BeLTT, performed on blood or lung lavage cells, which shows abnormal or positive findings; or
 - b. Three borderline BeLPT/BeLTT, performed on blood cells, conducted over a period of three years; or
 - c. One beryllium patch test, which shows a positive reaction.
2. A physician is required to validate the results of an abnormal or borderline BeLPT/BeLTT or beryllium patch test, which shows a positive reaction. If the testing physician is not available to validate testing results, the CE is to obtain an evaluation from another qualified physician (e.g., a Contract Medical Consultant).
3. Once the medical, employment, and causation criteria are satisfied for a beryllium sensitivity claim under Part B, the employee is eligible for medical monitoring (which includes all tests for chronic beryllium disease), treatment, and therapy for the condition effective on the date of filing.
4. An employee who meets these criteria under Part B, and worked as a DOE contractor or subcontractor, also qualifies for coverage under Part E, which includes medical monitoring, treatment, and therapy for the condition effective on the date of filing. In addition, the employee is eligible for lump-sum compensation for impairment and/or wage-loss if the CE finds that the criteria for those benefits are satisfied.

Disposition: Retain until incorporated in the Federal (EEOICPA) Procedure Manual.

RACHEL D. POND
Director, Division of Energy Employees
Occupational Illness Compensation