

Deepwater Horizon Oil Spill Medical Benefits Settlement

NOTICE

<https://deepwaterhorizonmedicalsettlement.com>

On May 2, 2012, a medical benefits class action settlement was reached related to the 2010 Deepwater Horizon Oil Spill in the Gulf of Mexico. As part of the settlement, BP Exploration & Production, Inc. and BP America Production Company (“BP”) have agreed to provide medical benefits to certain individuals who participated in the clean-up efforts after the spill or resided in certain areas that were affected by the spill. Benefits include recovery for qualified medical conditions, a periodic medical examination program, a back-end litigation option, and a Gulf Region health outreach program.

Federal employees that participated in the clean-up efforts after the spill may be eligible for benefits under the settlement. To request benefits, including recovery for qualified medical conditions and participation in the periodic medical consultation program, eligible federal employees must submit a proof of claim form, located [here](#).

Federal employees that do not wish to be included in the settlement agreement must opt-out by November 1, 2012 (this date was recently extended from the original date of October 1, 2012). By opting-out, federal employees will retain their right to sue BP for injuries or illnesses related to the spill, but will not receive any settlement benefits. Federal employees that do not opt-out by the deadline will automatically be included in the settlement agreement and will be bound by its terms. The instructions for opting-out are located [here](#).

FECA Benefits

Federal employees with injuries or illnesses related to the spill are eligible for FECA benefits regardless of whether they are included in the settlement agreement (provided their injury or illness is related to an accident or event that occurred in the performance of duty as a federal employee). Federal employees that receive settlement benefits are required under 5 U.S.C. § 8132 to report them to the Office of Worker’s Compensation Programs (“OWCP”), and may be subject to reimbursing the United States for benefits paid under FECA.

Periodic Medical Examination Program

Under the settlement’s periodic medical examination program, federal employees that are included in the settlement and submit a sufficient proof of claim form will be entitled to medical monitoring for the next 21 years, even if they do not currently have a qualifying medical injury. This is distinct from the medical benefits available under FECA, which are not provided until they have a qualifying injury. As such, the settlement’s medical monitoring program offers a benefit that federal employees would not otherwise receive under FECA absent an accepted injury. However, BP chooses the doctors for its medical monitoring program, while under FECA, employees have first choice in selecting their treating physician.

Back-End Litigation Option

Federal employees that are included in the settlement will be subject to the settlement's back-end litigation option. This option contains an election-of-remedies provision which states that individuals who develop future injuries or illnesses related to the spill can choose to pursue workers' compensation or sue BP, but not both. Under FECA and the applicable regulation, "No waiver of compensation shall be valid." *See* 20 C.F.R. 10.15. Thus, it is OWCP's position that the settlement cannot require federal employees to waive their rights to workers' compensation (by choosing to sue BP), and that the election-of-remedies provision cannot apply to FECA.

This notice is provided for informational purposes only and does not constitute legal advice. For legal advice, please contact an attorney.