

EEOICP Memorandum

Date: 10/4/01

To: District Offices

From: Branch of Policies, Regulations and Procedures

Re: Covered Uranium Employees and designation of Beneficiaries

We have recently re-evaluated our interpretation of the Regulations with regard to covered uranium employees and benefits due beneficiaries of the RECA. At paragraph 30.200 (a) of the Regulations, it states, "In order to be eligible for compensation under this section, **the Attorney General must have determined** that a claimant is a covered uranium employee or surviving eligible beneficiary of such employee who is entitled to payment of \$100,000 as compensation due under section 5 of the Radiation Exposure Compensation Act ... for a claim made under that Act." What this is actually stating is that if DOJ has determined that an individual (whether it be an employee or a surviving eligible beneficiary - **based on their rules**) is found to be entitled to a RECA award, the EEOICPA will compensate that individual an additional \$50,000. The survivor provision for EEOICPA, which is currently adopted from the Federal Employees Compensation Act (FECA), 5 U.S.C. 8133, will not apply to RECA compensation beneficiaries. For example, if a surviving spouse receives an award from RECA, we automatically pay that spouse benefits - he/she **is not** subjected to the EEOICPA survivor rule. By the same token, if a child is considered a surviving eligible beneficiary of a RECA award, he/she will automatically receive the \$50,000 from EEOICPA, and the EEOICPA survivor rule will not apply to that individual.

The EEOICPA/FECA survivor rules apply only where the covered uranium employee (i.e. husband or dad) was awarded the RECA section 5 award in his own right. In that case, the wife and kids must establish their entitlement to the EEOICPA lump sum under the EEOICPA/FECA survivor rules.

Another variation on this theme arises when children under the age of 18 or FT students under 23 file a RECA/EEOICPA claim. In this case, if the mother received RECA benefits as the only eligible surviving beneficiary (the RECA does not provide for shared lump sums), then the mother would receive the entire \$50,000 under EEOICPA, and the children receive nothing.

Since the original \$100,000 RECA award does not follow the EEOICPA criteria for the definition of what constitutes a survivor, the EEOICP will not apply this definition to the \$50,000 RECA compensation awards under our program. However, compensation that might have been payable to an eligible survivor (if the survivor were still living) still cannot be paid to that survivor's heirs.

Please take this new information into consideration when requesting additional documentation from claimants and when writing Recommended Decisions. There will be no need to obtain a marriage certificate from a spouse who has received the RECA award, as it has already been determined by DOJ that the spouse is a covered beneficiary and therefore is entitled to the EEOICPA \$50,000. When acceptance decisions are recommended for spouses or RECA surviving beneficiaries, the Decisions should not contain language indicating that the spouse is a surviving beneficiary under EEOICPA. The language should state that since the survivor received benefits under RECA, he/she is entitled to benefits under EEOICPA.

With regard to this interpretation, we are considering revising the letter that is sent to DOJ to determine if the claimant is the **sole** beneficiary of the RECA. In addition, we will be working with Claudia Gangi in outreach efforts for claimants that may have previously not applied.

SUPERSEDED