



EEOICPA BULLETIN NO. 14-04

Issue Date: July 1, 2014

Effective Date: July 1, 2014

Expiration Date: July 1, 2015

Subject: Authorized Representative Conflicts of Interest.

Background: Under the regulations guiding the administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), a claimant may designate an authorized representative, who is permitted to communicate with the Division of Energy Employees Occupational Illness Compensation (DEEOIC) on behalf of the claimant regarding the claims process. This authority includes permitting the authorized representative to request those services, appliances, and supplies claimed as necessary for the treatment of a compensable covered or occupational illness.

Conflicts of interest can arise when a duly authorized representative has direct financial interests as a result of his or her role, aside from the permitted fee enumerated under the EEOICPA. To provide that a duly authorized representative serves only the interests of the claimant, DEEOIC will not recognize the designation of a representative for any individual when DEEOIC finds that individual could directly benefit financially as a result of his or her role as a claimant's authorized representative, aside from the fee authorized by law.

References: 20 C.F.R. § 30.600; 20 C.F.R. § 30.601

Purpose: To provide that a duly authorized representative properly serves the interests of the appointing claimant.

Applicability: All staff.

Actions:

1. DEEOIC has developed a Conflict of Interest Policy regarding the role of authorized representatives. This Conflict of Interest Policy is to be communicated to any person serving as an authorized representative. The Conflict of Interest Policy is as follows:

As an authorized representative of a claimant under the EEOICPA, you are prohibited from having private, non-representational direct financial interests, other than your fee for serving as a representative, in regard to your client's claim with DEEOIC. Because the "role" of an authorized representative is so important, DEEOIC will consider you to have a prohibited "conflict of interest" if you could directly benefit financially from your client's EEOICPA claim due to something other than your statutorily limited fee for representing your client in connection with his or her EEOICPA claim. For example, you will be considered to have a prohibited conflict of interest if, in addition to being your client's authorized representative, you are also being paid by DEEOIC, directly or indirectly, as a provider of authorized medical services to your client. Because there is an obvious conflict of interest that will arise in this sort of situation, DEEOIC will not recognize you as an authorized representative should this occur, and will inform the claimant of the need to designate another person as his or her authorized representative who does not have such a conflict. If you are in a position to directly benefit financially from your client's EEOICPA claim, you are required to notify DEEOIC and withdraw as representative.

2. The Federal (EEOICPA) Procedure Manual, Chapter 2-0400.2c specifies that the appointment of a representative is to be made in writing. The notification is to be signed by the claimant and must identify the name, address, and telephone number of the representative. Once a signed notice of the appointment of an authorized representative is received, the DEEOIC returns an acknowledgment letter accompanied by the DEEOIC Conflict of Interest Policy. A sample of the acknowledgement letter is included as Attachment 1. The National Office is to coordinate notifications of the Conflict of Interest Policy to existing authorized representatives.

3. Once a claimant has appointed an authorized representative, and the assigned Claims Examiner (CE) has provided notification of the Conflict of Interest Policy to the representative, DEEOIC will recognize the authority of the representative to act on behalf of the claimant.

4. If, during any interaction with an authorized representative or in review of case evidence, the CE ascertains that the authorized representative may have a conflict of interest, immediate action is to be taken to address the matter. A conflict of interest may exist if there is evidence that the authorized representative is directly receiving financial benefits, aside from the authorized fee permitted under the law, as a consequence of his or her duties as the representative. Additional conflict of interest situations include evidence showing the authorized representative is employed, or contracted by, an individual, organization or entity that is receiving monetary payment from DEEOIC for services, supplies or other resources affiliated with the claim. This includes a family member or other relative of the claimant receiving a wage or who is contracted by a medical service provider that DEEOIC has granted authorization to provide in-home medical care. For situations where the CE is unclear whether a conflict of interest exists, the district office should contact the National Office Policy Branch for guidance.

5. Upon receipt of credible evidence that a conflict of interest may exist, the CE is to prepare a notice to the designated authorized representative, with a copy to the claimant. A sample of the notice is included as Attachment 2. The notice is to include a description of the evidence suggesting that a conflict of interest may exist. The CE is to ask that the authorized representative prepare a signed statement explaining his or her response to the evidence of a conflict of interest. Moreover, the CE is to state that if a conflict of interest does exist, DEEOIC will no longer recognize the designation of the authorized representative unless the conflict is eliminated. The authorized representative is to be permitted 30 days to respond to the notice.

6. Upon receipt of the authorized representative's response, the CE is to carefully evaluate the information provided, along with a review of the evidence of record, to determine if there is a basis for making a finding that a conflict of interest exists. If the authorized representative acknowledges that a conflict of interest exists, he or she may resolve the conflict

by either submitting a signed resignation as the authorized representative, or submitting evidence of the relinquishment of whatever charges, position, job or duty creates a conflict with the role of authorized representative. The claimant can also withdraw the authorization for that representative, in writing, and designate a new authorized representative in writing. Because an authorized representative with a conflict of interest will not be able to provide representation free of such conflict, consent of the claimant will not remove the conflict.

7. If the authorized representative contends that the circumstances identified by the CE do not constitute a conflict of interest under DEEOIC's policy, or no response is received within 30 days of the initial notification, the CE is to carefully weigh the evidence of record. Should the authorized representative provide the CE with sufficient rationale that absolves him or her of any conflict of interest, the CE is to notify the representative, in writing with copy to the claimant, that no further action is necessary. However, if the CE determines that there is compelling evidence of a conflict of interest, the CE should conclude that DEEOIC may no longer recognize the designated authorized representative as serving the interest of the claimant. Under this circumstance, the CE is to send a notice to the claimant that DEEOIC will no longer interact with the designated authorized representative due to a conflict of interest. The claimant is to be given the option of selecting a new authorized representative who does not have conflicting interests, or alternatively providing evidence that whatever conflict of interest that exists with regard to the chosen authorized representative has been eliminated. As noted above, consent of the claimant will not remove the conflict.

8. Once a CE or FAB CE/HR has determined that a conflict of interest exists that disqualifies a designated authorized representative from representing the claimant and appropriate notification of such has been reported to the claimant, no further interaction with or disclosure of information to the authorized representative is permitted.

9. Once a CE or FAB CE/HR has determined that a conflict of interest exists that disqualifies a designated authorized representative from representing the claimant, the district office or FAB office appropriate personnel is to remove the authorized representative (AR) indicator from the Energy Compensation System (ECS).

10. When a district office or FAB office is made aware of a conflict of interest with an authorized representative who represents claimants before multiple offices, the jurisdictional district office should notify the District Director of the affected offices.

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

Rachel P. Leiton

RACHEL P. LEITON
Director, Division of Energy Employees
Occupational Illness Compensation

Distribution List No. 1: Claims Examiners, Supervisory Claims Examiners, Technical Assistants, Customer Service Representatives, Fiscal Officers, FAB District Managers, Operation Chiefs, Hearing Representatives, Resource Centers and District Office Mail & File Sections

U.S. Department of Labor

Energy Employees Occupational Illness Compensation
Program
DOL DEEOIC Central Mail Room
P.O. Box 8306
London, KY 40742-8306



Date:

Claimant:

Case ID:

Representative Name

Address

City, State, Zip Code

Dear [Representative]:

According to our records, you have been designated as the authorized representative in the above case. As the authorized representative, you have the ability to receive correspondence, submit additional evidence, argue factual or legal issues and exercise appeal rights pertaining to the above claim. An authorized representative does not have signature authority on behalf of the claimant on Form EN-20.

As the authorized representative in the above case, any correspondence from the Division of Energy Employees Occupational Illness Compensation (DEEOIC) will be directed to you in this capacity. If the correspondence indicates a response is warranted or additional information is required, it is expected that you will make the necessary arrangements with the claimant.

Representative Fees. A representative may charge the claimant a fee for services associated with his/her activities regarding the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The claimant is solely responsible for paying any fee or other costs associated with the actions of a representative. DEEOIC will not reimburse the claimant, nor is it liable for the amount of any fee and other costs relating to an agreement between a claimant and a representative.

Permissible Charges. Under the regulations implementing 42 U.S.C. § 7385g, a representative is permitted to charge an appropriate fee for services related to a claim before DEEOIC. The maximum allowable percentage of a payment of lump-sum compensation that can be collected as a fee is as follows:

- (1) 2% for the filing of an initial claim with DEEOIC, provided that the representative was retained prior to the filing of the initial claim; plus
- (2) 10% of the difference between the lump-sum payment made to the claimant and the amount proposed in the recommended decision with respect to objections to a recommended decision.

Conflict of Interest Policy. As an authorized representative of a claimant under the EEOICPA, you are prohibited from having private, non-representational direct financial interests, other than your fee for serving as a representative, in regard to your client's claim with DEEOIC. Because the "role" of an authorized representative is so important, DEEOIC will consider you to have a prohibited "conflict of interest" if you could directly benefit financially from your client's EEOICPA claim due to something ***other than*** your statutorily limited fee for representing your client in connection with his or her EEOICPA claim. For example, you will be considered to have a prohibited conflict of interest if, in addition to being your client's authorized representative, you are also being paid by DEEOIC, directly or indirectly, as a provider of authorized medical services to your client. Because there is an obvious conflict of interest that will arise in this sort of situation, DEEOIC will not recognize you as an authorized representative should this occur, and will inform the claimant of the need to designate another person as his or her authorized representative who does not have such a conflict. If you are in a position to directly benefit financially from your client's EEOICPA claim, you are required to notify DEEOIC and withdraw as representative.

Please feel free to contact the District Office, if you have any questions or concerns. Our telephone number is 000-000-0000.

Sincerely,

Printed Name

Title

District Office

cc: Claimant

Case ID:

AUTHORIZATION FOR REPRESENTATION/PRIVACY ACT WAIVER

To provide that a duly authorized representative serves only the interest of the claimant, DEEOIC will not recognize the designation of an authorized representative whom DEEOIC finds is directly benefitting financially as a result of his or her affiliation with a claim, aside from the fee authorized by law.

I,

(Name of Claimant)

(Address of Claimant)

(City, State, Zip of Claimant)

do hereby authorize:

(Name of Representative/Person receiving records)

(Address of Representative/Person receiving records)

(City, State, Zip of Representative/ Person receiving records)

(Phone Number of Representative/Person receiving records)

to (check all that apply):

_____ serve as my representative in all matters pertaining to the administrative adjudication of my claim under the Energy Employees Occupational Illness Compensation Program Act of 2000 by the Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor.

_____ receive copies of all factual and medical evidence contained in my claim filed under the Energy Employees Occupational Illness Compensation Program Act of 2000 from the Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor.

I declare that the foregoing is true and correct. This authorization is effective on the date it is signed, and is effective until specifically revoked by me in writing.

(Signature of Claimant)

(Date)

U.S. Department of Labor

Energy Employees Occupational Illness Compensation Program
DOL DEEOIC Central Mail Room
P.O. Box 8306
London, KY 40742-8306



Date: Claimant:
Case ID:

Representative Name
Address
City, State, Zip Code

Dear [Representative]:

According to our records, you have been designated as the authorized representative in the above case. As the authorized representative of the above claimant, you are expected to put your client's interests before your own private, non-representational direct financial interests in all of your dealings with the Division of Energy Employees Occupational Illness Compensation (DEEOIC). DEEOIC will consider you to have a prohibited "conflict of interest" if you could directly benefit financially from your client's Energy Employees Occupational Illness Compensation Program Act (EEOICPA) claim due to something other than your statutorily limited fee for representing your client in connection with his or her EEOICPA claim.

DEEOIC has received information that suggests a conflict of interest exists in this case. *{Describe the evidence that suggests a conflict of interest. Be sure to include names, dates of letters, and all pertinent information to describe the evidence.}*

In light of this evidence, DEEOIC requests that you prepare a signed statement explaining your response to the above detailed evidence of a conflict of interest. Please submit your statement within 30 days from the date of this letter. Upon review of your statement, in conjunction with the evidence of record, DEEOIC will determine whether a conflict of interest exists in the case. If it is determined that a conflict of interest does exist, DEEOIC will no longer recognize you as the claimant's authorized representative unless the conflict of interest is eliminated. If you acknowledge that a conflict of interest does exist, you may resolve the conflict by either submitting a signed resignation as the claimant's authorized representative, or submitting evidence of the relinquishment of the charges, position, job, or duty creating the conflict.

Please contact the district office at XXX-XX-XXXX if you have any questions or concerns regarding this letter.

Sincerely,

Printed Name
Title
District Office

cc: Claimant

July 2014

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