U.S. Department of Labor

Occupational Safety and Health Administration
Oklahoma City Area Office
5104 N Francis Avenue, Suite 200
Oklahoma City, OK 73118

December 1, 2021

Rick Sappington
Seaboard Foods, LLC
2700 Cactus Drive
Guymon, OK 73942

Dear Mr. Sappington:

An inspection by the Occupational Safety and Health Administration (OSHA) took place at your facility at 2700 Cactus Drive, Guymon, OK on 06/01/2021 and was conducted pursuant to a formal complaint filed with the Oklahoma City Area Office (OCAO).

The complaint alleged "*Employees are exposed to ergonomic issues and musculoskeletal disorders (MSDs) on production lines.*

The employer has not properly recorded injuries on its OSHA 300 logs."

The aspects of the investigation that pertain to this letter include (1) a review of OSHA 300, 300A, and 301 injury and illness recordkeepingforms for years 2018 – 2021 year to date; (2) employee interviews; (3) management interviews (workers' compensation manager and informally with the HR manager); (4) interviews of First Aid clinic staff; (5) review of employee medical records; and (6) walkthroughs with ergonomic hazard assessments. The Office of Occupational Medicine and Nursing (OOMN) provided on-site and off-site assistance during the investigation.

During the inspection, OCAO and OOMN staff identified the following deficiencies in the medical services at Seaboard Foods:

- Lack of any written ergonomics program including one ensuring that the medical aspects are under the direction of a physician who is boarded in occupational or general preventive medicine with extensive ergonomic and work-related musculoskeletal disorders (WMSDs) expertise
- Lack of clinical supervision of the first aid clinic staff resulting in associated scope of practice issues
- Lack of first aid staff training in occupational health, ergonomic hazards and WMSDs
- Medical directives written for a clinic with physician oversight which is absent at this Seaboard Foods location
- Medical directives lack adequate detail
- Absence of written policies for a medical management program and individual case documentation of job modifications, restrictions and/or transfers provided early in the care of employees with WMSDs
- Inadequate medical documentation of nature and type of injury and interventions

- Employee reluctance to report injuries and illnesses driven by poor medical practices and inadequate follow-up
- Lack of data analysis to identify jobs and/or tasks with excessive injury rates, turnover, and/or absenteeism

These deficiencies increase the risk of serious WMSDs in Seaboard Foods employees related to their occupational ergonomic hazards. OSHA's concerns are as detailed below.

Organization and Structure of Seaboard Foods' Medical Services
Seaboard Foods provides medical care to its workers through a First Aid station that is currently staffed by two emergency medical technicians (EMTs), one RN, one certified medical assistant (CMA) and one student nurse. The EMTs staff the day and evening shifts with assistance and overlap from the other staff. Turnover has been extremely high in the First Aid station at least recently. With the exception of one EMT, the other four staff members were all hired in 2021. The services provided in the Seaboard Foods First Aid station are not limited to first aid for an initial injury with referral for follow-up care. Rather work-related injuries are assessed for referral need and employees who are not referred out to a physician, nurse practitioner or physician's assistant return to the clinic on a daily basis. The medical documentation is inadequate to determine what most visits, especially follow-up visits, entail but interviews and the limited medical records indicate that ice, non-prescription strength ibuprofen or acetaminophen and liniment are generally provided. In general, this represents an inadequate level of care according national, widely accepted consensus clinical practice guidelines.

Lack of any written ergonomics program including one ensuring that the medical aspects are under the direction of a physician who is boarded in occupational or general preventive medicine with extensive ergonomic and WMSDs expertise: Many of the concerns noted below are related to the lack of a detailed medical management program for WMSDs consisting of written policies and staff with the expertise to implement them. The goals of such a program are to reduce and eliminate factors that lead to WMSDs and to provide effective medical management that includes treatment and, importantly, ergonomic hazard mitigation. Medical management practices that focus on early intervention and prompt access to appropriate medical care are critical to employee health. This involves identifying injuries early, reducing the severity of injuries and promoting quicker recovery. In contrast, at Seaboard Foods, OSHA's inspection revealed that staff with inadequate credentials appear to treat conditions without diagnoses, schedule employees for multiple follow-up visits with the First Aid clinic, and may not refer to a healthcare provider with WMSD expertise even when employees ask for a referral. Some workers who sought care from private healthcare providers in Guymon were informed that they must seek care at Seaboard Foods for work-related conditions in order to have insurance cover it. Thus, if Seaboard Foods does not refer, the worker either lives with chronic pain or quits and may still have chronic pain and ongoing disability. In addition to this adverse quality of life impact on employees, there are adverse /production costs for employers as well. Turnover does appear to be a substantial concern at Seaboard Foods since orientation sessions as frequently as weekly were mentioned in interviews. In addition, three of the employees OSHA requested to interview were listed as terminated.

Recommendation: Seaboard Foods should obtain the services of an occupational or general

preventive medicine boarded physician with ergonomic and WMSD expertise as a consultant to assist with development of an ergonomic program. The American College of Occupational and Environmental Medicine (ACOEM) has this search option: https://acoem.org/acoem-find-a-provider and the Association of Occupational and Environmental Clinics (AOEC) has this search option: http://www.aoec.org/directory.htm.

Lack of clinical supervision of the first aid clinic staff resulting in associated scope of practice issues: Interviews with all five staff members and the workers' compensation manager revealed a lack of physician oversight. If employees report persistent or worsening symptoms, the lead EMT discusses the case with the workers' compensation manager to reach a decision regarding referral to a higher-level healthcare provider such as a physician, nurse practitioner or physician's assistant. Despite questioning multiple staff, OSHA was unable to identify any physician involvement in this decision making process or in care of employees up to that point or even input into a general protocol for such decision-making. The adverse impact of this deficiency on employee care is compounded by the fact that the medical directives do not include specifics on when to refer (see below). Delayed or absent referrals for trigger finger, persistent and/or worsening symptoms, and positive examination findings, such as swelling and bruising were documented in OSHA's inspection. Workers with acute crush and fall injuries reported lack of referrals for imaging and greatly delayed diagnosis was documented in at least one employee's medical records.

In addition, Seaboard Foods' arrangement may put its healthcare providers at risk of exceeding their authorized scopes of practice. As discussed below, EMTs are not trained to diagnose and treat chronic medical conditions or make decisions about work restrictions. Rather their training focuses on treating emergencies, stabilizing to the extent possible and transporting to an emergency department. The Administrative Program Manager – EMS Division, Oklahoma State Department of Health, stated via email that by statute, Oklahoma certified and licensed emergency medical personnel are limited to first aid, CPR, and the use of an AED when performing without a medical director or medical oversight. He noted that operationally, personnel would be able to perform some skills from their scope of practice in the first aid clinic in a factory. However, those skills are limited to those found in first aid and CPR courses. OSHA notes that the State of Oklahoma 2018 Emergency Medical Services Protocols do not include protocols relevant for follow-up of WMSDs (https://oklahoma.gov/content/dam/ok/en/health/health2/aem-documents/protective-health/emergency-systems/ems-division/protocols/2018-state-protocols-with-references-4-18-2018.pdf). Similar scope of practice concerns apply to unsupervised medical assistants, nurses and nursing students. Relevant links include the Oklahoma Board of Nursing at: https://nursing.ok.gov/index.html which also has the Oklahoma Nurse Practice Act at: https://nursing.ok.gov/actwp20.pdf .

The National Association of State EMS Officials' National EMS Scope of Practice Model 2019 report stated: "An EMT is a health professional whose primary focus is to respond to, assess and triage emergent, urgent, and non-urgent requests for medical care, apply basic knowledge and skills necessary to provide patient care and medical transportation to/from an emergency or health care facility. Depending on a patient's needs and/or system resources, EMTs are

sometimes the highest level of care a patient will receive during an ambulance transport. EMTs often are paired with higher levels of personnel as part of an ambulance crew or other responding group. With proper supervision, EMTs may serve as a patient care team member in a hospital or health care setting to the full extent of their education, certification, licensure, and credentialing." (National Association of State EMS Officials, 2019).

The National Registry of Emergency Medical Technicians states: "EMTs have the basic knowledge and skills necessary to stabilize and safely transport patients ranging from non-emergency and routine medical transports to life threatening emergencies. Emergency Medical Technicians function as part of a comprehensive EMS response system, under medical oversight." (National Registry of Emergency Medical Technicians, Version 2021.3).

OSHA staff have published on the risks of on-site workplace clinics staffed by EMTs and other first aid providers without any oversight by a higher-level provider (Tustin, 2018). This article documents OOMN's experience with the resulting scope of practice issues and inadequate medical care when healthcare is provided by individuals without the training and expertise to provide more than an initial assessment but who provide follow-up for employees without input from a physician or other higher-level provider. The authors note that EMTs are not trained to diagnose and treat chronic medical conditions or make decisions about work restrictions.

The lack of clinical supervision also results in a lack of evaluation of the care being provided by the First Aid clinic staff. Due to this lack of oversight, issues, such as those noted in this inspection, do not have a formal way of being detected and addressed.

> **Recommendations:** The occupational/general preventive medicine physician would be likely to have the necessary expertise to provide staff supervision as well. However, the occupational/general preventive medicine physician may not be local and so Oklahoma state requirements for supervision should be consulted to determine if a local healthcare provider is required. Services in the First Aid clinic may be delivered by registered or licensed practical nurses and EMTs as is currently occurring as long as they are appropriately supervised. Such supervision does not require a continuous on-site presence. The supervising physician (in conjunction with the occupational/general preventive medicine physician if these are different individuals) should evaluate the medical management program and make recommendations concerning structure, staffing, supervision, documentation, medical directives/protocols, and evaluation/quality assurance. WMSDs should be discussed with the occupational/general preventive medicine physician or evaluated by a higher-level health care provider within a few days, particularly if symptoms continue and/or positive examination findings are present. Positive examination findings will likely require earlier physician input/referral. Seaboard Foods should review Oklahoma State law regarding scopes of practice and other requirements for First Aid clinic staff and make sure that Seaboard Foods' practices meet legal requirements.

Lack of first aid staff training in occupational health, ergonomic hazards and WMSDs: None of the First Aid clinic staff has any formal training in occupational health. The lead EMT has been employed at Seaboard Foods for 16 years and has learned on the job. He has not taken continuing medical education courses on ergonomic hazards. Professional standards expect some

staff, such as physicians and nurses, should have advanced practice training in occupational health (Taiwo and Rabinowitz, 2007). Ergonomics training should include common risk factors/stressors capable of contributing to WMSDs and the control techniques, such as engineering and administrative controls, often necessary to eliminate or significantly reduce those risk factors/stressors.

Recommendation: The consulting occupational/general preventive medicine boarded physician would provide a resource for staff in these areas. Training of staff members should include (1) identification of WMSD related symptoms, injuries, and illnesses, (2) identification of common WMSD risk factors/stressors, (3) WMSD control techniques, (4) the importance of early reporting of musculoskeletal symptoms, injuries, and illnesses, and (5) effective communication approaches to encourage early reporting. In addition, staff should participate in continuing medical education courses on these topics. The American College of Occupational and Environmental Medicine (ACOEM) offers numerous virtual and in-person options at: https://acoem.org/Learning. The American Association of Occupational Health Nurses (AAOHN) also offers relevant conferences and online education (http://aaohn.org/p/cm/ld/fid=1142). Health professionals should tour work areas on a regular basis to observed ergonomic hazards and solutions implemented.

Medical directives are written for a clinic with physician oversight which is absent at this Seaboard Foods location: In response to a request for medical management policies, OSHA was provided with this 18 page document which starts with two pages signed by Dr. Lim on 12/8/2020 which are notable for the following:

- An understanding that an "Occupational Health Nurse" will administer first aid treatments to the employees of Seaboard Foods, in the event of a work related injury or illness.
- The treatments are described in the "policy and procedure manual" which appears to be this file with a title on page 3 of "Medical Services Manual" with "Medical Directives" for various conditions.
- Absence of a contractual agreement between Seaboard Foods and Dr. Lim
- The second page states "I have reviewed the Standing orders/Medical Directives written by the Medical Services Department at Seaboard Foods Inc. and understand that they will be using these guidelines to practice Occupational Medicine under the direct supervision of a physician." This is also signed by Rochelle Leyna, Medical Services Manager at Seaboard Foods.

Recommendation: The occupational/general preventive medicine physician consultant should be involved in updating the medical directives/protocols and case discussions of individual workers with injuries and illnesses.

Medical directives lack adequate detail: The medical directives only include text on two WMSDs: CTD and back injury. The directive for back injury involves calling advanced life support. The CTD directive requires physician assessment depending on symptoms however time periods are not clearly stated. Thus, these directives lack detail for signs and symptoms that require referral earlier than the 5-8 days of persistent symptoms mentioned in first aid staff interviews as their criteria. The medical directive for CTD states "if restricted duty is needed,

(*sic*) will be assessed by physician who will set the restrictions needed." However, modified or restricted duty if used early for work-related or -exacerbated MSDs are likely to be more beneficial than repeated first aid treatments consisting of ice, liniment and 400 mg of ibuprofen. The directives should be updated regularly to reflect current scientific knowledge and practice. For example, the Physical Assessments section states "Companies may conduct a comprehensive medical examination before hiring…" The medical directives reviewed do not consistently contain sections such as assessment, treatment, education, and medical referral.

> **Recommendation:** The occupational/general preventive medicine physician consultant should be involved in updating the medical directives/protocols which should then be reviewed by this expert at least annually. Specific issues to be addressed include detailed text on indications for referral to a physician or other higher-level provider for definitive evaluation and treatment. Work modifications or restrictions or job transfers should also be addressed particularly when workers report an exacerbating work factor and continue to have symptoms and/or positive examination findings. Clinic policies and protocols for the on-site clinic should include clinical practice guidelines, documentation standards, counter signatures, record reviews, quality audits and process evaluations. Seaboard Foods should ensure that the supervising occupational/preventive medicine physician implements a quality improvement process concerning documentation and management of injuries.

Absence of a written medical management program and individual case documentation of job modifications, restrictions and/or transfers provided early in the care of employees with WMSDs: OSHA was unable to identify a written policy and process through which the first aid clinic staff trigger a review of an employee's job to determine what is required to reduce the ergonomic hazard for the worker as their pain and other symptoms and signs are managed. In the setting of a WMSD, job restrictions, modifications and/or transfer to mitigate an ergonomic factor that is causing or exacerbating the WMSD is critical to reducing the severity of the condition. First aid staff report calling managers to recommend reduction of ergonomic hazards but not knowing the outcome. This may result in the employee being sent back to the job that caused the injury or rotated to other jobs with different titles but the same or similar physical activities/ergonomic hazards. Thus, the injured body part is not allowed to heal, which may increase injury severity. The safety manager is new and OSHA was advised that although his office is responsible for this process, he would not know much about it yet. The HR director noted challenges related to job sharing and seniority. Lack of follow-up information on job restrictions and transfers is also problematic for recordkeeping since the lead EMT does that.

> **Recommendation:** Seaboard Foods should develop a written medical management program to monitor employees and prevent early symptoms from progressing to more severe injuries. This program should include: determining the extent of injuries and illnesses and if they are caused or aggravated by work; educating all employees and supervisors on early signs of WMSDs and encouraging early reporting; instituting a formal documented tracking and surveillance program to monitor injury trends in the plant; providing adequate treatment of ergonomic related cases (including not reassigning employees to a job until it has been modified to minimize the hazards that resulted in the injury); and allowing adequate time off for recovery after surgery or other aggressive intervention. Investigations of specific jobs for employees who report work exacerbation of their condition should be detailed in safety

committee meeting minutes. Data analysis to determine the most hazardous jobs should be conducted. Break-in pain should be part of this data analysis.

Inadequate medical documentation of nature and type of injury and interventions: As part of this investigation, OOMN reviewed Seaboard Foods medical records for more than 90 employee injuries, most in different individuals. Most injury records consisted of SOI reports which have a front page containing a section labeled "Describe what happened" generally written by the employee. This is followed by a section labeled "First Aid Tech Notes" which generally includes very limited examination details such as swelling and/or range of motion; some only note where pain was reported. Treatment, which generally consists of ice, various creams/liniments and medication (ibuprofen or acetaminophen) at non-prescription doses, is also recorded in this section. The back of this form lists the days of the week and includes subjective reports from the employee when follow-up visits occur. Most have no additional notes from the first aid provider on objective findings, assessment or treatment at these follow-up visits. Often the days of the week are not even dated so the sequence to determine improvement may be unclear. Medical records from employees who are referred to the chiropractor who is contracted by Seaboard Foods include a standard from that he uses which has a rating for change since first visit and check boxes for subluxations, soft-tissue conditions, progress, affected by indications, plan, and procedures. Open ended spaces include a small space for chief complaint and larger spaces for notes and diagnosis. A diagram for pain location is also included. A few worker records include documentation from outside providers, either a personal healthcare provider or a specialist referred through workers' compensation. The last page of each SOI report is usually an email from the first aid provider to the worker's compensation manager providing details of the initial visit.

Recommendation: Documentation requirements should be established. Nursing documentation standards, such as the American Nursing Association (ANA)'s "Principles for Nursing Documentation," (https://www.nursingworld.org/~4af4f2/globalassets/docs/ana/ethics/principles-of-nursing-documentation.pdf) may be used as guidance to ensure that all assessments, treatments, and evaluation provided are recorded and complete

Employee reluctance to report injuries and illnesses driven by poor medical practices and inadequate follow-up: The investigation revealed evidence that some workers either (1) have been discouraged from seeking care, (2) do not seek care because they fear they may lose their jobs or get points, (3) feel like they are being treated with disrespect (i.e. ignored their own physicians' work restriction), and/or (4) do not feel that the same repeated First Aid clinic treatments benefit them.

Recommendation: Workers should be treated with respect and encouraged to report injuries early without fear of points or job loss. Employees should not be required to take leave without pay or use their own sick or vacation days for work-related injuries or illnesses. Employees should be made aware of this and other aspects of the ergonomic program implementation in worker trainings. Recommended practices for medical management of WMSDs involve early diagnosis and treatment and appropriate work restrictions (Silverstein and Evanoff, 2011). Initial implementation of an effective ergonomics program may lead to

increased injury reports, but the long-term impact is a reduction of the overall cost and severity of WMSDs (Harris Adamson C and Rempel DM). These authors note that the indirect costs of WMSDs, such as wages and training costs for replacement workers, productivity reduction, and quality reduction are typically three to four times as much as the direct costs of medical and rehabilitation expenses.

Lack of data analysis to identify jobs and/or tasks with excessive injury rates, turnover, and/or absenteeism.

Recommendation: Seaboard Foods should regularly monitor worker symptoms, injuries and illnesses as part of the assessment of health and safety at the plant. This information can help in assessing the medical management program, targeting ergonomic interventions, developing worker education, and decreasing worker injuries and illnesses. As noted above, specific jobs that are investigated when employees report pain from certain tasks should be recorded and tracked in a data management system, organized, and detailed in safety committee meeting minutes. Subsequent data analysis to determine the most hazardous jobs/tasks should be conducted. Break-in pain should be part of this data analysis.

The chiropractor Seaboard Foods stated as providing the preventive Active Release Techniques therapy (ART) program at this Seaboard Foods location is not currently credentialed by the ART company (as of 10/7/2021) and was never approved to provide an onsite preventive ART program: In a series of emails, Nathaniel Edwards, Chief Operating Officer, Active Release Techniques® wrote that the terms ART and ACTIVE RELEASE TECHNIQUES are federally registered trademarks. ART credentialing is structured as a trademark license. Attendees that complete an ART seminar and pass the hands on examination at the conclusion of the seminar receive a limited license to use the trademarks for 12 months and are listed in the ART provider directory at https://activerelease.com/find-a-provider/. The ART company requires annual recertification to renew the trademark license, in order to protect the goodwill of the trademarks, as well as to protect the public from providers that may not be capable of delivering quality ART. Providers claiming to provide ART who are not listed in the above website, which is kept current, may be providers that have never enrolled in an ART seminar or providers that have not completed an ART seminar in the preceding 13 months (the license includes a one month grace period). Proficiency in ART requires significant hands on practice with feedback from ART instructors, which is the focus of ART seminars.

In addition, the clinical documentation requirements for ART explicitly exclude one of the primary requirements for occupational health record-keeping, i.e., can the person do the job and what kinds of constraints does the provider consider important. Those are by themselves a critical element defining record-keeping requirements along with clinical management. The EMTs similarly consistently failed to include that information. This represents a stark deviation from expectations of national practice and represents a major failing of the employers oversight responsibilities given that Seaboard has hired practitioners who are practicing healthcare with inadequate oversight.

Note: This is not an endorsement of ART by OSHA but rather a statement that the provider of the Seaboard Foods program is not certified to do this at the current time.

Attached is a list of references and resources that may be of assistance to Seaboard Foods in their efforts to develop the medical management part of a robust ergonomics program.

These recommendations are not meant to be the only ones available or feasible. OSHA welcomes and requests a report on your efforts to address the above-mentioned concerns at 6 and 12 months. Under OSHA's current inspection protocol, we may return to your work site in approximately one year to further examine the conditions noted above.

To evaluate your efforts in reducing these hazards, please send me a letter detailing the actions you have taken, or plan to institute, to address our concerns within 60 days of the date of this correspondence. We will review your response and determine if a follow up is needed to further evaluate your workplace, including any recommended/implemented controls.

Under OSHA's current investigation procedures, we may visit your work site within six months to examine the conditions noted above. Enclosed is a list of available resources that may be of assistance to you in preventing work-related injuries and illnesses in your workplace.

Thank you in advance for your attention to these concerns. Working together, we can move closer to achieving the goal of workplaces free of preventable hazards. If you have any questions, please feel free to call the Area Office at (405) 608-4160.

Sincerely,

Steven A. Kirby
Area Director

References and Resources

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