

CHAPTER 3-501, LUNG TRANSPLANTSTABLE OF CONTENTS

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1. Purpose and Scope.

This chapter describes procedures for authorizing pre-transplant evaluations and lung transplants for living miners entitled to benefits under the Black Lung Benefits Act (BLBA) whose benefits are paid by the Black Lung Disability Trust Fund (Trust Fund), either as a Trust Fund or interim pay beneficiary. Additionally, this chapter contains procedures describing reimbursement of travel expenses specifically related to pre-transplant evaluations and lung transplants.

2. Authority.

20 CFR 725.701, 20 CFR 725.703, 20 CFR 725.704, 20 CFR 725.705, 20 CFR 725.706, 20 CFR 725.707, 20 CFR 725.708, 20 CFR 725.709, 20 CFR 725.710, 20 CFR 725.711, 20 CFR 725.716 and 20 CFR 725.718.

3. Policy.

Eligibility for medical benefits does not automatically include approval for a pre-transplant evaluation or lung transplant. Additional documentation, as detailed below, is required.

Typically, a transplant facility will first request a pre-transplant evaluation. After the pre-transplant evaluation has been authorized and has taken place, the transplant facility will provide a separate request for a lung transplant prior to the transplant procedure. Under some circumstances, a transplant facility may submit a request for a pre-transplant evaluation and lung transplant simultaneously. Pre-transplant evaluations and lung transplants can be approved separately or simultaneously. Pre-transplant evaluations can be approved retroactively; however, a lung transplant requires prior approval in accordance with 20 CFR 725.705(b).

4. References.

a. The Center for Medicare and Medicaid Services (CMS). CMS maintains a [list of Medicare-approved transplant facilities.](#)

b. The General Services Administration (GSA). GSA sets reimbursement rates for [privately owned vehicle \(POV\) mileage reimbursement, airfare, lodging and meals.](#)

5. Definitions.

a. Pre-Transplant Evaluation. A pre-transplant evaluation is an evaluation conducted by a transplant facility to determine whether a patient is a good candidate for transplantation. The transplant facility will perform a medical evaluation, which usually involves reviewing the patient's medical history and conducting various medical tests, including, but not limited to, pulmonary function tests (PFTs), arterial blood gas (ABG) studies, computerized tomography (CT) scans, blood tests, and additional studies to rule out the presence of other diseases or potentially-harmful medical conditions. Additionally, the

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transplant facility, typically its psychology, finance, and social work departments, will consult with the patient to assess the transplant's candidacy. The pre-transplant evaluation and consultations are commonly performed over a 3-5 day period in an outpatient setting.

b. Lung Transplant. The removal of one or both diseased lungs and their replacement with a lung or lungs from a donor.

c. Transplant Facility List. A list of facilities that CMS has approved to perform lung transplants.

d. Inquiry. A telephone call or written correspondence from a transplant facility or claimant (or their representative) that begins the document collection phase for a pre-transplant evaluation or lung transplant.

e. Request. An inquiry becomes a "request" for a pre-transplant evaluation or lung transplant on the date that all required documentation for referral to a medical consultant is received or on the OIS Submission Date.

f. OIS Submission Date. Receipt date of correspondence in the electronic OWCP Information System (OIS).

6. Responsibilities.

The Branch of Fiscal Operations and Technical Support (BFOTS), Medical Billing Section (Medical Billing Section) has primary responsibility for document collection, review, and determination of all requests for a pre-transplant evaluation or lung transplant where the miner is receiving benefits from the Trust Fund. The Medical Billing Section also reviews and processes reimbursements of any related travel expenses. Additionally, the Branch of Policy Analysis and Program Standards (BPAPS) has primary responsibility for coordinating any Medical Consultant reviews related to the processing of requests for pre-transplant evaluation or transplant. The BFOTS branch chief holds decisional signature authority over any determinations to approve or deny pre-transplant evaluations or transplants. Due to the urgent nature of this procedure and the narrow window of opportunity for the transplant process to occur, all requests must be handled expeditiously. By regulation, requests for lung transplants must be approved or denied within seven days of the request date. 20 CFR 725.705(b).

7. Responsible Operators.

Requests for pre-transplant evaluations or lung transplants where a Responsible Operator (RO) or insurer, and not the Trust Fund, is responsible for medical benefits should be submitted directly to the RO or insurer. ROs and insurers are required to provide the same coverage that the Trust Fund provides.

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8. General Requirements.

To approve a request for a pre-transplant evaluation or lung transplant the following criteria must be satisfied: (1) the miner must be entitled to benefits from the Trust Fund, either as a Trust Fund or interim pay beneficiary; (2) the medical facility must be approved by CMS; and (3) the medical evidence must establish that the pre-transplant evaluation or lung transplant is necessitated by the miner's pneumoconiosis or attendant disability.

**NOTE:** You should presume that the pre-transplant evaluation or lung transplant is caused or aggravated by the miner's pneumoconiosis. 20 CFR 725.701(e) (1). That presumption may be rebutted by credible evidence showing that the transplant is for a pulmonary disorder apart from those previously associated with the miner's disability, or if the evaluation or transplant is beyond what is necessary to effectively treat a covered disorder. 20 CFR 725.701(e) (2). A transplant request cannot be denied based on evidence purporting to show that the miner does not have pneumoconiosis or is not totally disabled by pneumoconiosis. 20 CFR 725.701(e) (3).

9. Evaluation Procedures.

a. Inquiries. Inquiries for pre-transplant evaluations or lung transplants may be submitted in writing or over the telephone. Typically, an inquiry for a pre-transplant evaluation and/or lung transplant is made directly to the Medical Billing Section from the transplant facility; however, occasionally the transplant facility will contact the district office. Inquiries may also occasionally come from a claimant or claimant's representative. If the district office receives an inquiry relating to a pre-transplant evaluation or lung transplant, the inquiry must be referred to the Medical Billing Section immediately. The Medical Billing Section will promptly contact the facility.

b. Initial Review. When an inquiry for a pre-transplant evaluation or lung transplant is received, the Medical Billing Section will first confirm the following:

(1) Liability for Reimbursement. The miner is entitled to benefits from the Trust Fund, either as a Trust Fund or interim pay beneficiary; and

(2) CMS Approved Facility. The transplant facility is approved by CMS.

c. Required Documentation. Following the confirmation of the details in 9b above, the Medical Billing Section will request that the transplant facility submit the following required documentation:

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(1) Pre-Transplant Evaluation.

(a) Physician's Letter of Justification. A request for a pre-transplant evaluation must be accompanied by a physician's letter of justification. A physician's letter of medical justification is a narrative statement, prepared by a qualified physician who has been actively treating the patient for their pulmonary condition. The letter of medical justification represents the physician's independent assessment and opinion and must include a brief review of the claimant's pertinent medical history, a brief statement regarding the claimant's current medical condition, and explanation of the claimant's medical need for a lung transplant evaluation.

(2) Transplant.

(a) Protocols. The facility's lung transplant protocols; and

(b) Medical Records. When the inquiry is in relation to a lung transplant and a pre-transplant evaluation was conducted, the transplant facility must submit all the medical records produced for the pre-transplant evaluation, including the results of all tests, consultations, and narrative reports.

d. Requests. The Medical Billing Section will review all documentation submitted to determine whether the transplant facility has submitted the documents required for each type of request in section 9c above. If all necessary documents have been submitted, the inquiry will be considered a "request" for a pre-transplant evaluation or lung transplant effective the date the documents were received or the OIS Submission Date.

(1) Response to Requests.

(a) Pre-transplant evaluations. The Medical Billing Section may approve the request upon review and verification that a suitable physician's letter of justification was submitted. In rare instances, including when a claimant has previously undergone evaluation and found to not be a suitable candidate for a lung transplant, the Medical Billing Section may utilize discretion, develop the matter further and ultimately have a request for a pre-transplant evaluation reviewed by a medical consultant.

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(b) Lung Transplants. A medical consultant must review all relevant documentation associated with a request for lung transplant [or in rare cases a pre-transplant evaluation] prior to a determination to approve or deny a request.

These records will be referred by BFOTS to a medical consultant for review. The medical consultant will be asked, "Based on the review of the documents provided, is a lung transplant [or pre-transplant evaluation] required due to the miner's pneumoconiosis or attendant disability? Please provide your reasoned opinion and identify objective findings that support your conclusion. This request cannot be denied based on evidence suggesting that the miner does not have pneumoconiosis or is not totally disabled due to pneumoconiosis."

e. Decision Issuance. After careful review of all the information and documents related to a request including, if obtained, the medical consultant's report, the Medical Billing Section will reach a decision to approve or deny the request. The Medical Billing Section will notify the miner of the decision by written letter with a copy to the transplant facility and any other party to the claim. The letter must be signed by the Chief of BFOTS. The medical consultant's report, if obtained, will be provided to all parties to the claim as an attachment to the letter. In the event that a letter approving or denying a lung transplant cannot be issued within seven days of the request, notification of the decision may be made over the telephone within that timeframe. In these instances, the Medical Billing Section will still issue a letter (signed by the Chief of BFOTS) documenting the decision as promptly as possible.

(1) Approval. Approval of requests for pre-transplant evaluations and lung transplants will be issued by the Medical Billing Section via a letter signed by the Chief of BFOTS.

(2) Denial. Denial of requests for pre-transplant evaluations and lung transplants will be issued by the Medical Billing Section via a letter signed by the Chief of BFOTS. The letter will include an explanation of the basis for the denial and will state that the miner or transplant facility has a right to request a formal hearing on the denied request before the Department's Office of Administrative Law Judges (OALJ). The letter will also state that the miner or facility may ask for reconsideration of the decision based on new medical evidence. Upon request for reconsideration, the Medical Billing Section will consider the new medical evidence and take any steps necessary, including referral to a medical consultant, to reach a decision on the request.

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(a) Notification of Decision on Reconsideration. If the miner or facility submits a new request as described above, the Medical Billing Section will notify the miner of the decision on the request by written letter signed by the Chief of BFOTS with a copy to the transplant facility and any other party to the claim. The decision will include a copy of all medical development and reports to all parties of the claim. If the decision is a denial, it will include an explanation of the basis for the denial, and it will also include a notice that the miner or transplant facility has a right to request a hearing before the OALJ.

10. Recording Actions in the Automated System.

The approval, or denial, of, lung transplant requests are tracked using the following Diary Action Codes (DAC).

a. Approval and Denial DACs.

(1) Lung Transplant Approval.

(a) LTA. The Medical Billing Section will enter "LTA" in the Diary Screen if the request for a lung transplant is approved. The start date is the date notification of the approval is sent to the claimant, the transplant facility, and all parties of the claim.

(2) Lung Transplant Denial.

(a) LTD. The Medical Billing Section will enter "LTD" in the Diary Screen if the request for a lung transplant is denied. The start date is the date notification of the denial is sent to the claimant, the transplant facility, and all parties of the claim.

11. Authorizing Reimbursement for Travel, Lodging and Meals.

For cases in which the Trust Fund is liable (including interim pay cases), payment of travel-related expenses may be authorized only if the miner has been approved for a pre-transplant evaluation or a lung transplant. In such cases, requests for reimbursement of travel-related expenses associated with either of those procedures are evaluated according to the following guidelines:

a. Travel Authorization Request. Prior to incurring any travel expenses, the miner should provide their travel plans to the Medical Billing Section for authorization specifying the travel period, mode of travel, overnight lodging details, and any special requests.

b. Mode of Transportation.

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(1) Private Owned Vehicle (POV). When traveling via a POV, reimbursement for mileage is based on the GSA reimbursement rate.

(2) Airfare. When traveling via air, airfare reimbursement will be based upon the actual cost incurred, but not to exceed the cost of a refundable coach or economy class fare (Y-Class airfare).

(3) Public Transportation. Travel by forms of public transportation such as bus, boat, or train must be by the shortest route. Reimbursement will be based on the actual cost incurred.

(4) Ambulance. Travel by ambulance may be approved and reimbursed if the miner demonstrates a medical need for such service by providing a medical justification from the miner's physician.

(5) Air Ambulance. Travel by air ambulance may be approved and reimbursed when the miner's physician provides a statement describing the critical condition of the miner and why that condition precludes any other means of transportation.

c. Lodging. Lodging expenses will be paid only by reimbursement to the miner, the miner's estate, or the miner's survivor. Reimbursement for any lodging is limited to the actual daily charge up to the maximum GSA reimbursement rate for the year and city in question.

(1) Proximity. Requests for pre-transplant overnight lodging in close proximity to the transplant facility may be approved. Several factors will be weighed when considering pre-transplant lodging requests. These include the transplant facility's protocol for maximum time or distance of travel to the facility once the miner is notified of impending transplantation; medical necessity of the lodging; and reasonableness of the lodging.

(2) Post-Transplant Lodging. Requests for post-transplant lodging in close proximity to the transplant facility may be approved. Several factors will be weighed when considering post-transplant lodging requests, including the transplant facility's post-transplant protocol, medical necessity, and reasonableness.

d. Meals, Incidentals & Expenses. The miner may also be reimbursed for meals and incidental expenses. Meals and incidental expenses are reimbursed as a fixed-rate, daily allowance, regardless of actual expenditure, and are determined by the GSA published rate for the geographic location.

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e. Hospitalization. No payment will be authorized for lodging or meals for days in which the miner is hospitalized.

f. Companion Expenses. Reimbursement for the travel-related expenses of a companion will be approved if the miner demonstrates a medical need for a travel companion by providing a well-reasoned medical justification from the miner's physician.

12. Processing Payments.

Once a request for a pre-transplant evaluation or lung transplant is approved, the Medical Billing Section will coordinate payment of related medical expenses.