



# Impairment





## What is an Impairment?

The American Medical Association's Guides to the Evaluation of Permanent Impairment (AMA's Guides), 5th Edition, defines impairment as:

“a loss, loss of use or derangement of any body part, organ system or organ function.”

Employees who have been approved for an accepted covered illness under Part E of the Act may be eligible to receive compensation for impairment.



## Who Can File for an Impairment Award?

- **Employee:**
  - A covered Part E employee found to have contracted a covered illness through exposure to a toxic substance at a Department of Energy (DOE) facility or Radiation Exposure Compensation Act (RECA) section 5 facility.
- **Survivors (option available to some survivors):**
  - If a survivor is not entitled to the lump sum \$125,000 entitlement payment, he/she may opt to receive compensation that otherwise would have been paid to the covered employee.
  - For this option to be available, the employee must have filed a claim under Part E and then died from a non-covered condition prior to receiving that compensation.



## What are the Impairment Benefits?

- Monetary Benefits (compensation) provided to employees with accepted covered illnesses that have reached maximum medical improvement (MMI) or if the employee is terminal.
- Established by use of current medical evidence (within last 12 months).
- Impairment report/evaluation is performed by a qualified physician using the 5<sup>th</sup> Edition of the AMA's *Guides*.
- As a result of an impairment rating, the claimant may receive \$2,500 per percentage point ( $\$2,500 \times 1\% = \$2,500.00$ ).

Impairment benefits are subject to Tort Offset/State Workers' Compensation (SWC) Coordination.

- Maximum payable compensation under Part E, excluding medical benefits, is \$250,000.00. This maximum includes monetary compensation paid as wage-loss benefits.



## How Do You File for an Impairment Award?

- **Submit a signed Form EN-11A by mail, fax, or the portal**
- The impairment forms must be signed by the employee/claimant, the authorized representative, or the employee's attorney-in-fact under a Power of Attorney.
- Form EN-11A allows claimant to indicate an impairment rating physician.
- Form EN-11A will usually be sent out to the claimant and authorized representative following the acceptance of a new covered illness under Part E.
- Available on request by calling the Resource Center, or the District Office/claims examiner.



## Can You File for Additional Impairment?

- Yes, a claimant who has a previously awarded impairment may file for additional benefits:
  - Based on an increased rating for accepted covered illness(es).
  - Not earlier than two years from the date of the previous impairment decision (date of Final Decision). (We will discuss certain exceptions to the 2-year wait period).
  - For such a claim, the claimant should file using [Form EN-10](#), Claim For Additional Wage-Loss and/or Impairment Benefits, Form EN-11A (the claims examiner will be required to obtain a signed EN-11A to allow the claimant to communicate his or her choice of physician to perform the rating).



## Are There Any Exceptions to the 2-Year Rule?

- Yes:
  - New accepted illness(es) or new consequential illness.
  - The employee is terminal.
  - Substantial detrimental effect to the claimant's living circumstances.
  - Received an impairment rating of 0% and subsequently obtains a new impairment rating greater than 0%.



## Who Can Perform Impairment Ratings?

- The employee can choose a qualified physician of his/her choice or request that a Contract Medical Consultant (CMC) perform the evaluation. (Note: A list of qualified physicians can be provided by the Resource Centers.)
- Qualifications: Physicians who perform impairment evaluations must hold a valid medical license and Board certification/eligibility in a relevant field of expertise (e.g., toxicology, pulmonary, neurology, occupational medicine, etc.).
- The physician must also meet at least **one** of the following criteria:
  - Be certified by the American Board of Independent Medical Examiners (ABIME)
  - Be certified by the American Academy of Disability Evaluating Physicians (AADEP)
  - Possess knowledge and experience in using the AMA's *Guides*
  - Possesses the requisite professional background and work experience to conduct such ratings



## Possible Benefits of Choosing a CMC

- The physicians meet the qualifications required to perform an impairment rating.
- Claimant does not need to identify a qualified impairment rating physician (because CMCs are already recognized as qualified to perform impairment ratings).
- The impairment evaluations from the CMCs contain all required information, i.e., PFTs, ADLs, etc.
- If all appropriate medical evidence is received/submitted, the District Office receives a rating from the CMC typically within twenty-one (21) days of referral submission.



## What Can You Do to Make Things Easier?

- File for an Impairment Claim using the correct forms. (Forms can be provided on request by contacting the Resource Center, or your claims examiner).
- For CMC evaluations - Assist in getting current medical and Activity of Daily Living (ADL) information.
- For non-CMC evaluations - Assist in getting the impairment report completed quickly.
- Assist in submitting all requested information quickly, i.e., completion of EN-16, Tort Offset/SWC Coordination documentation.



## Impairment: Tools and Links

- **EEOICPA Procedure Manual (see chapter 21 for Impairment)**
- <https://www.dol.gov/owcp/energy/regs/compliance/PolicyandProcedures/ConsolidatedProcedureManual.htm>
- **How Do I Qualify for an Impairment Award?**
- [https://www.dol.gov/owcp/energy/regs/compliance/brochure/How\\_do\\_I\\_qualify.pdf](https://www.dol.gov/owcp/energy/regs/compliance/brochure/How_do_I_qualify.pdf)
- **EEOICPA Significant Decisions Regarding Impairment and Election of Benefits**
- <https://www.dol.gov/owcp/energy/regs/compliance/Decisions/GenericDecisions/Headnotes/DecisionImpBenefits.htm>
- <https://www.dol.gov/owcp/energy/regs/compliance/Decisions/GenericDecisions/Headnotes/DecisionSurvivors.htm#Election>
- **Resource Center contact info:**  
<https://www.dol.gov/owcp/energy/regs/compliance/ResourceMeetings/maps/resourcecenterDenver.htm>
- **District Office/Claims Examiner contact info:**  
<https://www.dol.gov/owcp/energy/regs/compliance/law/JurisdictionMap.htm>



# Questions



Questions can also be submitted to [DEEOIC-Outreach@dol.gov](mailto:DEEOIC-Outreach@dol.gov)

Thank you very much for attending the DEEOIC Webinar