

## Steven Markowitz

---

**From:** Rhoads, Carrie - OWCP <Rhoads.Carrie@dol.gov>  
**Sent:** Wednesday, April 07, 2021 12:32 PM  
**To:** Steven Markowitz  
**Cc:** Ch\_nce, Michael A - OWCP; DOL Energy Advisory Board Information  
**Subject:** FW: COVID19 Follow-up with the Advisory Board  
**Attachments:** Example2\_COVID\_Opinion\_Redacted.pdf; Example1\_COVID\_Opinion\_Redacted.pdf

Dr. M – the below and the attaches examples are in follow up to your discussion with John Vance yesterday. Please let me know if anything else is needed.

Thanks,  
Carrie

---

Carrie Rhoads | OWCP | DLHWC | Alternate Designated Federal Official, Advisory Board on Toxic Substances and Worker Health  
FPB C-3524 | 202-354-9669 | [rhoads.carrie@dol.gov](mailto:rhoads.carrie@dol.gov)

As it relates to COVID19, the federal (EEOICPA) Procedure Manual Chapter 23 Consequential Conditions communicates to staff a mechanism for making a finding of compensability for a claimed medical condition when it is a consequence of a previously accepted work-related illness. In particular, the procedure defines a consequential relationship as the following:

Consequential relationship to a previously accepted illness:

*The effect of an accepted occupational illness under Part B and/or covered illness under Part E in causing, contributing to or aggravating an injury, illness, impairment, or disease is considered a consequential condition. A CE is to accept as compensable any claimed consequential condition(s) that is documented properly by substantive, well-rationalized medical evidence.*

DDEOIC has begun to receive consequential illness claims for COVID19 relating to individuals with existing accepted work-related illnesses. The argument being made is that the existence of a pre-existing, accepted illness is aggravating or contributing to the effects of diagnosed COVID19. This is most frequently encountered in situations in which a claimant has an accepted respiratory disorder that worsens after a positive diagnosis of COVID19.

The issue for the Board is really a question of medical necessity relating to development. To what extent must DDEOIC obtain medical documentation from a qualified physician explaining the effect of a work-related respiratory disorder (or other occupational illnesses) on a claimant with a positive diagnosis of COVID19? In other words, under what circumstance(s) would it be considered reasonable, if any, for the program to presume that an accepted illness aggravated or contributed to a diagnosis of COVID19, thereby meeting the definition of consequential illness? Such a presumption would permit the program to accept COVID19 without seeking out the opinion of a qualified physician on the topic. A presumption would be appropriate in those instances where the Board could establish a well-rationalized basis to assume confidently that a consequential relationship exists between identified work-related illnesses and COVID19. In those instances where the Board could not confidently establish a presumptive consequential relationship between accepted illnesses and COVID19, the program would defer to the medical judgement of the claimant's physician on whether a consequential relationship is established.

To illustrate the type of medical evidence that the program requires currently to establish a consequential relationship, two redacted medical reports are attached for reference.

- Example 1: Employee filed for COVID19 02/22/2021 – as a consequential illness to COPD. COPD accepted by DEEOIC on 11/6/22017.
- Example 2: Employee filed for COVID19 12/9/2020 – as a consequential illness to Asbestos Related Pleural Thickening. Asbestos Related Pleural Thickening accepted by DEEOIC on 02/25/2020

file 2821

# Tamara Singleton MD, Inc.

1167 A Hwy 554 PO Box 805

El Rito, NM 87530

Phone: 575 581-0033 Fax: 575 581-0034

December 8, 2020

U.S. Department of Labor

[Redacted]  
[Redacted]  
[Redacted]

Dear Claims Examiner,

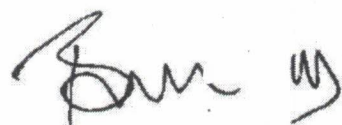
[Redacted] Department of Labor covered condition is (Z77.090) Pleural Thickening. I have assessed his physical limitations and his continued need to receive home health care services.

[Redacted] was admitted to the hospital on 12/1/2020 due to a flare up of his covered condition. Upon discharge, [Redacted] was diagnosed with Acute respiratory failure as well as pneumonia due to COVID-19. He continues to suffer from acute respiratory failure and remains at a high risk for reinfection of the pneumonia. The chest x-ray revealed, 'Bilateral lung multifocal subtle patchy and interstitial opacities compatible with provided clinical history of infection'. [Redacted] currently suffers from a lung disease and it is apparent that this contributes to his diagnosis on admission to the hospital.

According to an article in the Journal of Occupational Medicine and Toxicology, pleural thickening causes the pulmonary function to become more restrictive which results in the patient suffering from respiratory failure and subsequent death<sup>1</sup>. This is evidenced by [Redacted] as he was diagnosed with respiratory failure as a direct consequence of his pleural thickening. Also, according to the Centers for Disease Control and Prevention, individuals with underlying medical conditions, including pulmonary disease, are at a much higher risk for developing COVID-19<sup>2</sup>.

Based on my review of the medical records and available research, it is evident that [Redacted] has been diagnosed with acute respiratory failure (ICD-10: J96.00; Date of Diagnosis 12/1/2020) and COVID-19 (ICD-10: U07.1; Date of Diagnosis 12/1/2020) as a direct consequence of his covered condition of pleural thickening.

Respectfully,



Tamara Singleton, MD

<sup>1</sup> Miles, S. E., Sandrini, A., Johnson, A. R., Yates, D. H., (2008). Clinical consequences of asbestos-related diffuse pleural thickening: A review. Journal of Occupational Medicine and Toxicology. 3(20). <https://dx.doi.org/10.1186%2F1745-6673-3-20>.

<sup>2</sup> Centers for Disease Control and Prevention. (2020, December 1). People with Certain Medical Conditions. Coronavirus Disease 2019 (COVID-19). <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>



March 3, 2021

U.S. Department of Labor  
DEBOIC  
P.O. Box 8306  
London, KY 40742

[REDACTED]

To Whom it may concern:

I am writing as a treating physician for [REDACTED] regarding the relationship of the COVID-19 virus to his Department of Labor covered condition of COPD.


[REDACTED] was admitted to the Doctors Hospital of Augusta on 1/17/2021 with the COVID-19/ pneumonia. His condition of COPD has also been severely exacerbated during this hospital admission and continues to this date. He was treated with high flow oxygen, steroids and antibiotics. He is still presenting with significant dyspnea, oxygen desaturations and generalized weakness.

The chronic inflammation and airway obstruction caused by [REDACTED] COPD directly contributes to the COVID-19 and the severity of it's symptoms. Per the CDC, Adults of any age with underlying COPD are at increased risk of severe illness from the virus that causes COVID-19. 1) Per studies in Respiratory Medicine, "The results of this concise meta-analysis demonstrate that COPD is associated with a significant, over five-fold increased risk of severe COVID 19." 2)

In conclusion, with the medical evidence provided, it is my medical opinion that [REDACTED] COVID-19 has been worsened/aggravated by his underlying condition of COPD and therefore should be added as consequential condition.

Please contact me if there are any questions.

Sincerely,

  
Dr. Sidney Rhoades, M.D

---

CDC, People with certain medical conditions,  
Center for Disease Control, Feb 22, 2021

Lippi, G et al, Chronic Obstructive pulmonary disease is associated with severe coronavirus disease (COVID-19), Respiratory Medicine,