CHAPTER 2-300 - CLAIMS PROCESSING

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Part 2 - Claims

1. Purpose and Scope.
This Procedure Manual (PM) chapter describes the Division of Coal Mine Workers' Compensation (DCMWC) Program's responsibilities relating to the processing of claims, including the organization and function of the district office (DO) and the organization and control of claim files.

2. Legal Authority.
Section 422(a) of the Black Lung Benefits Act (BLBA); 20 CFR 725.350 and 408.

3. Policy.
District offices must be organized to receive and process new claims. Office personnel must develop and store evidence to enable proper adjudication of the claim. Claim files must be properly organized and maintained to facilitate development. Adequate evidence must be obtained in order to make a preliminary entitlement determination on the claim.

4. References.
20 CFR 725.350 and 408; PM Chapters 1-301, 2-200, 2-301, 2-302 and 2-1000.

5. Definitions.
(Reserved)

6. Responsibilities.

a. The District Director (DD) is responsible for processing of all claims under the jurisdiction of the district office.

b. National Office Staff (NO) is responsible for the processing of all foreign claims.

7. Organization of District Office: Related Duties and Responsibilities.
DCMWC district offices are divided into claim units. Positions within a unit are summarized below. Staffing may vary somewhat from office to office and some may be filled by contracted personnel.

a. District Director. The district director (DD) directs all activities in the district office. The DD or their designee is authorized to:

(1) Make preliminary entitlement determinations with respect to the approval or denial of claims.

(2) Conduct informal discovery proceedings.

(3) Compel the production of documents by the issuance of a subpoena.

(4) Prepare documents for the signature of parties.

(5) Issue appropriate orders.

(6) Take all other necessary actions provided by the Act to carry out the duties of the office.

b. Supervisory Workers' Compensation Claims Examiner. The Supervisory Claims Examiner, in conjunction with the DD, is responsible for guiding and directing staff activities. The supervisor reviews the work of the claims staff and makes recommendations to ensure the flow and quality of the work within the unit.

c. Senior Workers' Compensation Claims Examiner. The Senior Claims Examiner (SCE) develops and adjudicates claims. In addition, at the DD's discretion, the SCE may be assigned more complex claims work of the DO; provide back up for management functions; and provide guidance, training or support to the claims staff.

d. Workers' Compensation Claims Examiner. The primary function of the claims examiner (CE) is to adjudicate claims for benefits under the Black Lung Benefits Act (the Act). The CE obtains the evidence necessary to make an entitlement determination on a claim, reviews the evidence and makes a preliminary determination to approve or deny benefits. The CE also makes determinations as to whether a responsible operator (RO) or the Black Lung Disability Trust Fund (Trust Fund) is liable for payment of benefits. The CE prepares orders and pertinent notices for execution by the DD. The CE may act under delegated authority of the DD, including but not limited to authority to execute orders for the payment or denial of benefits under the Act.

e. Workers' Compensation Assistant/Claims Assistant. As assigned by the DD, the Workers' Compensation Assistant/Claims Assistant (WCA) authorizes initial medical examinations upon receipt of a new miner's claim. The WCA processes diagnostic bills. The WCA may receive and respond to telephone calls, referring the more complex questions to the appropriate CE; review incoming mail in accordance with office procedures, may review claims to verify that all requested evidence has been received and initiate the development of evidence or follow up actions under the guidance of a CE. The WCA may process post-entitlement actions such as annual benefits review, changes of address or representative payee development. The WCA may process survivor conversion cases.

f. Administrative Assistant. The Administrative Assistant works directly for the DD, handling a variety of administrative tasks, such as personnel actions; payroll issues; or issues relating to property, supplies and equipment.

g. Information Systems and Training Specialist. The primary function of the Information Services and Training Specialist (ISTS) are to provide technical support to the DO for the automated systems and in the development of training products.

h. Data Processing Technician. The primary function of a data processing technician (DPT) is to enter information into the automated system which records claims and related actions. The DPT also works in the imaged system to identify and route electronic mail.

8. Initial Review and Adjudication of Claims by DCMWC Offices.
Upon receipt of a new claim (see OWCP Imaging System (OIS) instructions), the claims staff will review the documentation, ensure that a proper claim has been submitted and initiate development for any information or evidence which is needed to adjudicate the claim.

(When processing widow conversion cases, no additional relationship documentation need be obtained if the evidence of relationship in the miner's file was acceptable for the augmentation of benefits.)

9. Handling of Claim File Material.
While examining and reviewing claim documentation, the claims staff will confirm that all material in the file belongs to that claimant. If the claims staff finds material included in a case file that pertains to another claim (misfiled information), such material is to be removed from the file and routed to the appropriate office or individual.

For misfiled imaged documents, the document will be re-indexed to the correct case ID.

For paper documents, the document will be physically mailed to the correct district office with a note that it was misfiled in a paper claim file. The receiving office will place the paper document in the paper file.

When handling paper documents, no notation of any kind (i.e., marginal notes, underlining, check marks, etc.) should be made on any form, correspondence, evidentiary material, or document by the claims staff. White-out, etc. should never be used on claim forms or any other file documents. The appropriate claim number or case ID may be entered in pencil in the upper right hand corner of material that is not otherwise identified. It is suggested that paper clips or "post-its" be used to mark particular passages or items of information the CE may wish to emphasize or remember, or that notes be made on a full sheet of paper and attached to the file immediately above the item referred to. Be sure to remove any notes before a file is referred for hearing as these notes are not to be included as claim exhibits.

In the event a claim file must be transferred from one office or module to another, the last CE assigned to the claim will be responsible for the proper transfer of the claim file, as well as the completion of any time sensitive work before the transfer.

10. Organization of Claim File.
Claim files must be maintained in proper order at all times. With the implementation of OIS, guidance was provided for the organization and designation of evidence in imaged files. See imaging guidance for specific instructions on organization of imaged documents.

For paper documents, the folder has a two-pronged paper fastener attached on the inside right cover. All claim forms, evidence, correspondence and memoranda must be attached to this fastener in the following order starting from the bottom (see PM Chapter 1-301). Note: It is also acceptable to follow the hearing file order (Exhibit 738) during claims development.

a. Claim Forms (available through the correspondence system).

(1) Application Forms CM-911, 912 (if more than one claim form, earlier first).

(2) Transmittal Forms.

(3) Request to be Selected as Payee, Form CM-910.

(4) Authorization and Appointment of Claimant's Representative, CM-1078.

b. State Workers' Compensation Information.

(1) Request for State or Federal Workers' Compensation Information, CM-905.

(2) Other Workers' Compensation Documentation.

c. Proof of Coal Mine Employment.

(1) Employment History, Form CM-911a.

(2) Social Security earning report.

(3) Employer's statement.

(4) W-2 and wage verification.

(5) Other primary evidence of coal mine employment (CME).

(6) Secondary evidence of CME.

(7) Affidavits.

(8) Description of Coal Mine Work and Other Employment, Form CM-913.

d. Supporting Documents.

(1) Miner's death certificate.

(2) Marriage certificate.

(3) Divorce certificate.

(4) Spouse's death certificate.

(5) Children's birth certificates.

(6) Children's school attendance certification, Form CM-981.

(7) Other Relationship and Dependency Documentation.

e. Medical Information.

(1) Medical Development Worksheet Summary, Form CM-934 and Authorization for Release of Medical Information, CM-936;

primarily used for survivor claims.

(2) Selection of Examining Physician.

(3) X-ray reports, filed in chronological order by date of examination. (CM-933/933b)

(4) Pulmonary Function Tests (PFT) reports and tracings, filed in chronological order by date of examination. (CM-2907)

(5) Arterial Blood Gas (ABG) reports, filed in chronological order by date of examination. (CM-1159)

(6) Physical examination reports, narrative medical, and hospital reports, filed chronologically. (CM-988)

(7) Validation of Pulmonary Function and Arterial Blood Gas Studies (CM-1104 - available through the correspondence system).

(8) Curriculum Vitae.

(9) Biopsy and autopsy reports.

(10) Lay evidence.

f. Miscellaneous Letters and Papers.

(1) Attorney representation letters.

(2) Responsible Operator (RO) Notifications.

(3) Status letters.

(4) General notes on the claim (notes on specific items such as CME evidence and medical reports should be on separate sheets and placed above that report).

g. Initial Finding Summary, CM-885, is fastened on the left side of a paper folder.

h. Folder Tracking Slip and FRC Tracking Slip, CM-1085, is stapled to the outside of the folder when a hybrid (combination of paper and imaged) file is transferred from one location to another, and is fastened inside on the left side of the paper folder when the file is received from another location.

11. Case Control - Claimant and Payment Subsystem (CAPS).
CAPS is designed to provide current claim information to DCMWC offices. The system will record and store data on each application, provide the current status of claims development and indicate the current and past jurisdiction of the claim file. Staff must ensure that information stored in the system is kept up to date.

a. Basic Information. Upon receipt of a claim, the name, address, SSN, date of filing and other basic information will be entered into the system. The system will assign a case ID. Last date of Coal Mine

Employment (CME) and the alleged number of years of CME will also be entered at this time, if available. This data can be corrected following review of the claim, and CAPS will be updated each time a developmental action is completed.

b. Specific Instructions. Specific instructions for the use of CAPS and responsibility for updating this system are provided in the Program's Automated Support Package (ASP) Systems User Manual (SUM). Additional instructions for using the imaged file system are in a separate manual.

12. Diary Actions during Claims Development.
In order to ensure the timely development of evidence during the processing of claims, diary action codes (DAC) have been developed for keeping track of actions taken during the development of evidence. These codes are entered into the automated system. When a particular piece of evidence is requested, a DAC is entered with a starting date. When the action is complete, an end date is entered. (See PM Chapter 2-303.)

13. Determining Total Disability or Death Due to Coal Workers' Pneumoconiosis.
For benefits to be payable under the Act, certain criteria must be met:

a. The claimant must have filed a valid and (in the case of a miner) timely claim for benefits.

b. The claimant must be or have been a coal miner or an eligible survivor of a coal miner as defined in the Act.

c. The miner must have or have had pneumoconiosis as defined in the Act.

d. The miner must be or have been totally disabled due to pneumoconiosis, or, in the case of survivors who do not meet the requirements for automatic entitlement, death must have been due to pneumoconiosis.

e. The miner's pneumoconiosis must have arisen from coal mine employment.

14. Initial Request for Evidence.
The claims staff must identify and request all evidence necessary to complete development of the claim on first review (see section 7 above). When the initial request for evidence is sent to a new applicant, the claims staff should inform them as to what actions will be required of them during the stages of development of their claim, the approximate time it will take to make a determination and what to do if questions arise. This will be accomplished by including an informational "Guide to Filing" with the initial request for evidence (available from the correspondence system).

15. Development Subsequent to Initial Development.
If the claims staff initially finds that the conditions listed in section 13

above are met, additional development must be undertaken before the preliminary decision can be issued.

The claims staff must determine the following:

a. Date from which benefits are payable;

b. Amount of benefits payable and to whom;

c. Liability for payment of benefits.

16. Initial Finding Summary.

The Initial Finding Summary, Form CM-885 must be completed on every claim at the time the CE issues the Schedule for Submission of Additional Evidence (SSAE) and the Proposed Decision and Order (PDO). The Summary is generated from the Correspondence System (CORS) when either of those documents is issued. A detailed rationale for the recommended decision must be included in the summary.

17. Claim Jurisdiction within DCMWC.

To determine which DO has jurisdiction over a claim, refer to the DCMWC Website: https://www.dol.gov/owcp/dcmwc/districtoffices.htm. If jurisdiction for a claim changes or a claim file is tracked to an incorrect location, the DO should promptly transfer the file to the appropriate office. An imaged file is tracked to the new location and an e-mail sent to the receiving DO; for a hybrid file, also transfer the physical file via Form CM-1085 (available through the correspondence system). When transferring a claim to a different office, a memorandum-to-file will be included, stating the reason for the transfer. Time sensitive work is to be completed by the referring DO before transfer. For example, if documentation is available which supports a benefit change, the action will be taken prior to the transfer of the file.

18. Subsequent Claims.

a. Duplicate Claims. Where the claimant has a pending claim with the Department of Labor, and files an additional claim, the DO will treat the additional claim as a duplicate claim and will merge its contents with the prior filing.

b. Refiled Claims. If a miner or survivor submits a new claim within one year of the final denial of a prior claim, the claims staff will contact the claimant to determine if the intent was to request modification of the prior claim or to refile for benefits. See PM Chapter 2-1302 for specific instructions.

If a miner or survivor refiles and the time limitation for appeal or modification has expired on the prior claim, the new claim will be adjudicated as a subsequent claim pursuant to 20 C.F.R. 725.309.

c. Companion Claims. An example of a companion claim is a claim filed by a survivor while the miner's claim is still pending at the district office level. In these cases, the evidence of record for each

claim will be maintained independent of the other; the claims staff will review both claims concurrently. Each claim will be decided on the merits of their individual evidence.

19. Withdrawal of a Claim.

a. Conditions for Withdrawal of a Claim. A claimant or an individual authorized to execute a claim on behalf of the claimant, may withdraw a previously filed claim under the following conditions:

(1) The claimant files a written request with the DCMWC office indicating the reasons for requesting withdrawal of the claim.

(2) If the claimant is deceased, the request for withdrawal is filed by a person authorized to do so on behalf of the claimant's estate.

(3) The district director determines that withdrawal of the claim is in the best interest of the claimant or the claimant's estate.

(4) Any benefits previously paid by the Trust Fund must be reimbursed.

b. A PDO will be issued through the correspondence system. See PM 2-1105 for guidance.

(1) Note: If the request for withdrawal follows a PDO on the merits of the claim, enter 590 diary action code. See PM 2-303.

c. Effect of Withdrawal of a Claim. If the request for withdrawal of a claim is approved, the claim will be considered not to have been filed. When responding to a request for withdrawal of a claim, the correspondence must make the effect of withdrawal clear so that the claimant understands that if he/she wishes to be considered for benefits again, a new application must be filed.

d. Cancellation of Request for Withdrawal of a Claim. At any time prior to the approval of a request for withdrawal, the request may be canceled by written request of the claimant or a person authorized to act on behalf of the claimant or the claimant's estate.

20. Denial of a Claim by Reason of Abandonment.
The district director may consider a claim denied by reason of abandonment at any time for any one of the following reasons:

a. The claimant fails to undergo a required medical examination without good cause. An example of good cause would be the claimant's inability to get transportation to the medical facility.

b. The claimant fails to submit evidence sufficient to make a determination on the claim. Failure to submit evidence would not be a basis for denial if the claimant makes a good faith effort to obtain

necessary evidence, but is unable to for reasons beyond the claimant's control.

c. The claimant fails to pursue the claim with reasonable diligence. The claimant must make an active effort to pursue the claim. Actively pursuing the claim includes cooperating with the RO or the DD in obtaining documents, meeting scheduled medical appointments or responding timely to any reasonable request. (See PM Chapter 2-801.)

If the DD determines that denial by reason of abandonment is necessary because of the claimant's failure to take required actions as described above, an *Order to Show Cause* will be issued. See PM 2-1104 for guidance.

21. Whereabouts of Claimant Unknown.

If the claimant moves and cannot be located, the claims staff should make an effort to locate the claimant prior to denying the claim as abandoned. The following are means that can be used in attempting to locate a claimant:

a. Contact the Post Office for forwarding address.

b. Perform an electronic search for the claimant.

c. Contact any person who provided a statement concerning employment or physical condition of the miner.

d. Contact the family doctor if listed in file.

e. Contact SSA.

When all attempts to locate the claimant have failed, the claims staff will prepare a memorandum for the file describing the attempts made, and will send an abandonment notice to the claimant's last known address. See PM 2-1104 for guidance.