

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
Washington, D.C. 20210



RELEASE - TRANSMISSION OF REVISED MATERIAL TO BE
INCORPORATED INTO THE FEDERAL (EEOICPA) PROCEDURE MANUAL:
CHAPTER 2-0400 REPRESENTATIVE SERVICES.

EEOICPA TRANSMITTAL NO.09-06

August, 2009

EXPLANATION OF MATERIAL TRANSMITTED:

- This material is to be transmitted for placement in the new Unified Procedure Manual (PM) binder.
- This material fully replaces Chapter 2-1200 Representative Services.
- This material incorporates the consolidation of updated information and guidance as it pertains to the Program's administration of Parts B and E of the EEOICPA.

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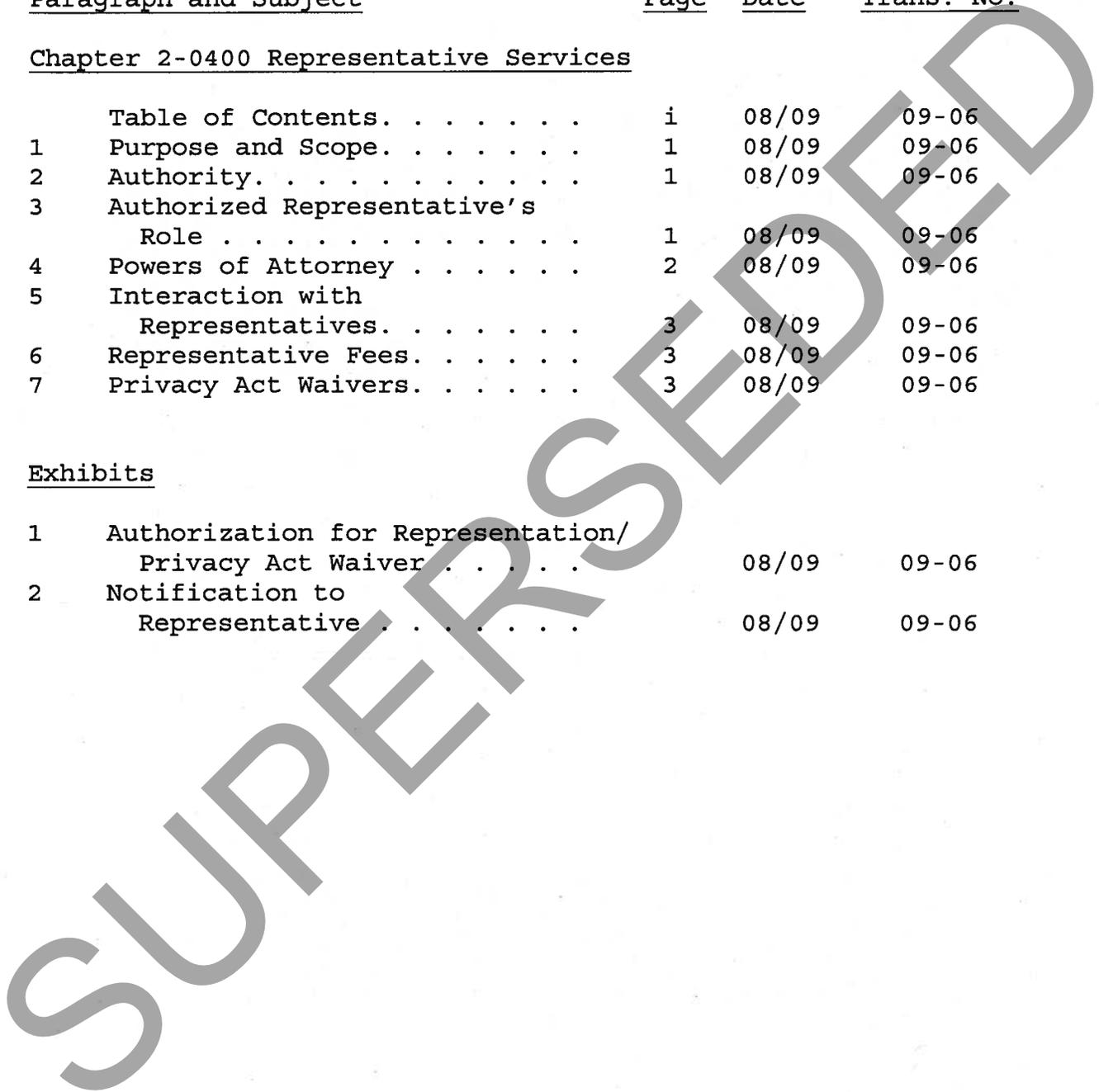
FILING INSTRUCTIONS:

File this transmittal behind Part 1 in the front of the new Unified Federal (EEOICPA) Procedure Manual.

Distribution: List No. 3: All DEEOIC Employees
List No. 6: Regional Directors, District
Directors, Assistant District Directors,
National Office Staff, and Resource Center
Staff.

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Part 2 - Claims

Representative Services

1. Purpose and Scope. This chapter discusses persons who represent the interests of claimants before the Division of Energy Employees Occupational Illness Compensation (DEEOIC), the interaction between a Claims Examiner (CE) and a representative, and fees charged by representatives for their services.

2. Authority. Under 20 C.F.R. §§ 30.600 and 30.601, a claimant may authorize any person, not otherwise prohibited by law, to represent him or her.

a. No Requirement for Representation. A claimant need not be represented to file a claim or receive a payment.

b. Exclusive Representation. If a claimant chooses to have an authorized representative, he or she may appoint only one person at a time. However, an individual who holds power of attorney to act on a claimant's behalf may appoint an authorized representative (see paragraph 4 below). When that happens, DEEOIC will only recognize and communicate with the authorized representative.

c. Authorization in Writing. Any appointment must be in writing. The claimant may appoint a representative by filling out the "Authorization for Representation/Privacy Act Waiver" (Exhibit 1), but use of this form is not required (see paragraph 7 below for a discussion of Privacy Act waivers). If the appointing document does not contain the representative's full name, telephone number and address, the CE obtains that information.

d. Length of Appointment. DEEOIC recognizes the authority of a properly appointed representative throughout the entire claims process (including any hearing), unless or until the claimant withdraws the appointment.

3. Authorized Representative's Role. The authorized representative's role in the claims process depends on the scope of the authority that the claimant grants him or her. Unless the claimant's authorization specifies otherwise, a properly appointed authorized representative has the authority, to the same extent as the claimant, to present or seek evidence, make factual or legal arguments, and obtain information from the case file.

3. Authorized Representative's Role. (Continued)

Any notice requirement in the Act or the regulations is fully satisfied if the notice is served on an authorized representative, and it has the same effect as a notice served on the claimant. An authorized representative does not, however, have authority to sign the EN-20 for the claimant unless the authorized representative has also been granted power of attorney.

4. Powers of Attorney. A person with power of attorney to act in the name of the claimant is known as an "attorney-in-fact." The authority of an attorney-in-fact depends on the language used in the written instrument delegating such authority. It may authorize him or her to take a variety of actions, such as signing documents and DEEOIC forms as if he or she were the claimant. An attorney-in-fact may also appoint an authorized representative to act on behalf of the attorney-in-fact. Therefore, if an individual asserts power of attorney for a claimant, the CE must obtain a copy of the document conferring such authority. The CE must carefully examine the document to determine the scope of the attorney-in-fact's authority to act in specific contexts, on behalf of the claimant.

a. Form EN-20. If an individual asserts power of attorney for the claimant on Form EN-20, the CE must submit the documents purporting to grant such power for review by the Office of the Solicitor of Labor (SOL) to ensure that they are valid under the applicable state law.

b. No Form EN-20. In all other circumstances, the CE reviews the power of attorney documents to determine whether the authority granted is consistent with the actions that the attorney-in-fact seeks to perform on the claimant's behalf, such as speaking with district office staff and signing correspondence. If the power of attorney documents do not grant such authority, the CE notifies the claimant that the power of attorney designation cannot be honored for the purposes sought. The claimant has a right to remedy this situation by granting the proper authority in a signed document.

Part 2 - Claims

Representative Services

5. Interaction with Representatives. The CE must obtain a copy of the written appointment of a representative before taking any action at the representative's direction. After a claimant properly appoints a representative, the CE contacts the representative by letter (Exhibit 2). In the letter, the CE acknowledges the appointment and describes the extent to which the representative has an active role in the claims process.

6. Representative Fees. A representative may charge a claimant a fee for services associated with representation before DEEOIC. Under 20 C.F.R. § 30.602, OWCP is not responsible for any fee charged by a representative of an EEOICPA claimant, nor will it reimburse the claimant for any fees paid to the representative.

a. Fee Limits. Under 20 C.F.R. § 30.603, for services rendered in connection with a claim pending before OWCP, a representative may not receive more than the following percentages of a lump-sum payment made to a claimant:

(1) 2% for the filing of an initial claim with OWCP, provided that the representative was retained prior to the filing of the initial claim; plus

(2) 10% of the difference between the lump-sum payment made to the claimant and the amount proposed in the recommended decision with respect to objections to a recommended decision.

b. Limitations. These maximum fee limitations apply even if the claimant and representative have agreed to other amounts in a contract or otherwise.

7. Privacy Act Waivers. A Privacy Act waiver grants DEEOIC permission to copy all documents from the case file and send them to a person of the claimant's choosing. This person may be anyone the claimant wishes to receive material from the case file. The designated person will have no authority to make requests for additional information or sign documents on behalf of the claimant, unless the claimant submits additional documentation showing that the designee has such authority.

File Number:

AUTHORIZATION FOR REPRESENTATION/PRIVACY ACT WAIVER

I, _____
(Name of Claimant)

(Address of Claimant)

(City, State, Zip of Claimant)

do hereby authorize:

(Name of Representative/Person receiving records)

(Address of Representative/Person receiving records)

(City, State, Zip of Representative, Person receiving records)

(Phone Number of Representative/Person receiving records)

to (check all that apply):

_____ serve as my representative in all matters pertaining to the adjudication of my claim under the Energy Employees Occupational Illness Compensation Program Act of 2000.

_____ receive copies of all factual and medical evidence contained in my claim filed under the Energy Employees Occupational Illness Compensation Program Act of 2000 from the Office of Workers' Compensation Programs, U.S. Department of Labor.

I declare that the foregoing is true and correct. This authorization is effective on the date it is signed, and is effective until specifically revoked by me in writing.

Signature

Date

SUPERSEDED

U.S. Department of Labor

Employment Standards Administration
Office Of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation



Phone: or
Fax:

Date

Representative Name
Address

City, State, Zip Code

RE: Claimant Name and Case Number

Dear [Representative]:

According to our records, you have been designated as the authorized representative in the above case. As the authorized representative, you have the ability to receive correspondence, submit additional evidence, argue factual or legal issues and exercise appeal rights pertaining to the above claim. The authorized representative does not have signature authority on behalf of the claimant on Form EN-20.

As the authorized representative of [claimant name], any correspondence from the Division of Energy Employees Occupational Illness Compensation (DEEOIC) will be directed to you in this capacity. If the correspondence indicates a response is warranted or additional information is required, it is expected that you will make the necessary arrangements with [claimant name].

Representative Fees. A representative may charge the claimant a fee for costs associated with his/her activities regarding the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The claimant is solely responsible for paying any fee or other costs associated with the actions of a representative. The DEEOIC will not reimburse the claimant, nor is it liable for the amount of any fee and other costs relating to an agreement between a claimant and a representative.

Permissible Charges. Under the regulations implementing 42 U.S.C. § 7385g, a representative is permitted to charge an appropriate fee for services related to a claim before DEEOIC. The maximum allowable percentage of a payment of lump-sum compensation that can be collected as a fee is as follows:

- (1) 2% for the filing of an initial claim with DEEOIC, provided that the representative was retained prior to the filing of the initial claim; plus
- (2) 10% of the difference between the lump-sum payment made to the claimant and the amount proposed in the recommended decision with respect to objections to a recommended decision.

Please feel free to contact the District Office, if you have any questions or concerns. Our telephone number is 000-000-0000 or fax 000-000-0000.

Sincerely,

Claims Examiner

CC: Claimant