

**From:** [Donna Hand](#)  
**To:** [DOL Energy Advisory Board Information](#); [Hearthway, Julia - OWCP](#); [Reff, Alisa - OIG](#)  
**Subject:** interviews with IH before decision  
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The regulation supports the need for the claimant to discuss their job exposure with the IH.

§ 30.111 What is the claimant's responsibility with respect to burden of proof, production of documents, presumptions, and affidavits?

(a) **Except where otherwise provided in the Act and these regulations,** the claimant bears the burden of proving by a preponderance of the evidence the existence of each and every criterion necessary to establish eligibility under any compensable claim category set forth in § 30.110. Proof by a preponderance of the evidence means that it is more likely than not that the proposition to be proved is true. Subject to the exceptions expressly provided in the Act and the regulations in this part, the claimant also bears the burden of providing to OWCP all written medical documentation, contemporaneous records, or other records and documents necessary to establish any and all criteria for benefits set forth in these regulations.

(b) In the event that the **claim lacks required information or supporting documentation, OWCP will notify the claimant of the deficiencies and provide him or her an opportunity for correction of the deficiencies.**

(c) Written affidavits or declarations, subject to penalty for perjury, by the employee, survivor or any other person, will be accepted as evidence of employment history and survivor relationship for purposes of establishing eligibility and may be relied on in determining whether a claim meets the requirements of the Act for benefits if, and only if, such person attests that due diligence was used to obtain records in support of the claim, but that no records exist.

(d) A claimant will not be entitled to any presumption otherwise provided for in these regulations **if substantial evidence exists that rebuts the existence of the fact that is the subject of the presumption. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *When such evidence exists, the claimant shall be notified and afforded the opportunity to submit additional written medical documentation or records.***

Without the knowledge or data that the IH used or did not use, the "relevant substantial evidence" is bias and violates due process.

Donna Hand