

From: [Calvin and Lisa Parker](#)
To: [DOL Energy Advisory Board Information](#)
Cc: ["Terrie Barrie"](#)
Subject: Issues with Rescinded Circular EEOICPA 15-06.
Date: Friday, March 15, 2019 8:39:29 PM

Please make the following redacted letter public for your public meeting in Augusta in April. This is what I sent to the Ombudsman. If anyone wishes a copy of the RD or the unreacted letter, please email me.

I am writing in regard to the Recommended Decision for my husband, dated February 21, 2019. As you review, please remember **this decision was from 2019.**

I read the recently released Ombudsman Report 2017. I took a particular interest in Chapter 8. I will be professional in this response, but my response as a wife reading the RD of my husband is "ARE YOU KIDDING ME?!"

It is 2019, and you have Claims Examiners (XXX, Cleveland), Industrial Hygienists(XXX, Contracted from the Banda Group International LLC, and XXX, Senior Health Physicist and Supervisor with DEEOIC BPRP) and Contract Medical Consultant (XXX) all apparently did not receive, read, or care about EEOICPA Circular 17-04 and are STILL using the language and assumptions of EEOICPA Circular 15-06. There is something VERY broken in the DEEOICPA training program. How many claimants did not know about Circular 17-04 and have not appealed their RD?

Why has DEEOICPA not had a stand-down on this issue with CE's and Contractors who are making decisions based upon the assumptions of Circular 15-06 that was rescinded in 2016 AND was problematic enough to make your Ombudsman Report?

This is further infuriating and frustrating to claimants because now WE have to go through an appeal hearing on April 15, 2019 and present this information to the hearing officer. Information that the CE should have and be following, information, the contract consultants should have and be following and information the hearing officer should have and follow. But NOOOOO, instead of a remand, "we made an error", this onus has been placed upon the sick worker to "instruct" the aforementioned on procedures and policies they should have and already be following.

If requested for the board meeting, I can provide the Recommended Decision on Feb 21, 2019 with highlighted areas of error. In the "Notice of Recommended Decision" page 2, paragraph 4, the SEM is INCORRECT on the assumption that this job title of Safety Engineer/Specialist had no potential of exposure. We will be submitting letters from plant employees to the contrary.

The bottom paragraph of this page however, does read: "***It is highly likely that (my husband), in his capacity as a Security/Police Officer at the Portsmouth Gaseous Diffusion Plant, was significantly exposed to multiple toxins***" At this point, I would like to point out that XXX was a Police Officer/Supervisor from 1979 to 1990. He worked with the following Police Officers: XXX during that time, and for a shorter period during that time frame, XXX and XXX. Those three have been awarded COPD under Subpart E. Did they have CE's and CMC's who actually read Circular 17-04? I do digress.

Page 3 of the RD, paragraph under the table, the Claims Examiner uses the rescinded language of Circular DEEOICPA 15-06 : “ ***there is no available evidence (ie, personal and/or area industrial monitoring data) to support that, after the mid-1990’s. his exposure to these agents would have exceeded existing regulatory standards***”

To the “supporting” documentation for the denial of the claim of COPD. Memorandum dated December 11, 2018 from contract Industrial Hygienist XXX to XXX Senior Health Physicist, Supervisor. Page 1 of 4, last paragraph: she states Mr XXX in his role in the police department would have been significantly exposed to ammonia. But then she enters into the last 2 sentences (carried to page 2 of 4) where she quotes from the rescinded language/assumption of Circular 15-06 instead of using the language and assumptions of the newest Circular 17-4.

Page 3 of 4, paragraph above the table, she again affirms his exposures to multiple toxins known to cause COPD.

Now the Medical Consultant Report of Dr XXX. Page 2, he improperly uses Mr. XXX’s past smoking practices and it appears to have clouded his decision. This is in your report, Chapter 8 Section F. Perhaps it is time the DEEOICPA actually make a written policy on this, assuming your contractors and CE’s would read it. There is ample evidence Mr XXX was exposed to these chemicals the full 20 years of his employment.

Page 3, Paragraph under the table, again, using rescinded language from Circular 15-06 instead of the language of 17-04. Under Analysis: again making an assumption on rescinded language and assumptions.

Last paragraph illustrates a deeper issue. It is apparent Dr X, who wanted “PROMPT PAY”, copy/pastes all his denial’s of claimants. In this paragraph he forgot to change “Mr Thomas” to “Mr XXX. I hope Mr Thomas was able to appeal his decision.

In addition, Mr. XXX submitted medical information from the Pulmonologist at the Veteran’s Administration Hospital and Dr. Matthew Exline, Professor at Ohio State University College of Medicine , Pulmonary Diseases. The CE took the Contract Medical Doctors word over that of a Board Certified Pulmonologist. There is no mention of acceptance of Dr. Exline’s opinion.

I am submitting this information and more so you may share with the The Board . **There is a PROBLEM and the DEEOICPA is not serving claimants well when basic Memorandums that change policy are not read, incorporated or utilized.** The claimant suffers. **Shame on the DEEOICPA’s “training” program.**

I hope this issue will find its way to the Advisory Board meeting in April in Augusta, GA.

Lisa Parker