

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES  
AND WORKER HEALTH

+ + + + +

SUBCOMMITTEE ON EVIDENTIARY REQUIREMENTS FOR  
PART B LUNG CONDITIONS (AREA #3)

+ + + + +

MEETING

+ + + + +

WEDNESDAY,  
SEPTEMBER 21, 2016

+ + + + +

The Subcommittee met telephonically at  
1:00 p.m. Eastern Time, Carrie Redlich, Chair,  
presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT

MEDICAL COMMUNITY:

STEVEN MARKOWITZ

CARRIE A. REDLICH, Chair

LAURA S. WELCH

**CLAIMANT COMMUNITY:**

**KIRK D. DOMINA**

**JAMES H. TURNER**

**OTHER ADVISORY BOARD MEMBERS PRESENT**

**FAYE VLIEGER**

**DESIGNATED FEDERAL OFFICIAL:**

**CARRIE RHOADS**

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1 P-R-O-C-E-E-D-I-N-G-S

2 1:05 p.m.

3 MS. RHOADS: Hi. Good morning or  
4 afternoon, everyone.

5 My name is Carrie Rhoads, and I'd like  
6 to welcome you to today's teleconference meeting  
7 of the Department of Labor's Advisory Board on  
8 Toxic Substances and Worker Health, the  
9 Subcommittee on Part B Lung Conditions.

10 I'm the Board's Designated Federal  
11 Officer, or DFO, for today's meeting.

12 First, we appreciate the time and the  
13 work of our Board members in preparing for this  
14 meeting, and for their forthcoming work as well.

15 I'll introduce the Board members and  
16 do a quick roll call for the committee members.

17 Dr. Carrie Redlich is the Chair of the  
18 Subcommittee. Are you on the line?

19 CHAIR REDLICH: Yes, I am.

20 MS. RHOADS: Okay. And the members  
21 are Dr. John Dement.

22 MEMBER DEMENT: Here.

1 MS. RHOADS: Mr. Kirk Domina.

2 MEMBER DOMINA: I'm here.

3 MS. RHOADS: Dr. Laura Welch.

4 MEMBER WELCH: I'm here.

5 MS. RHOADS: Mr. James Turner.

6 MEMBER TURNER: Here.

7 MS. RHOADS: And Dr. Steven Markowitz.

8 MEMBER MARKOWITZ: I'm here.

9 MS. RHOADS: And he is also the Chair  
10 of the Board. And Ms. Faye Vlieger, another  
11 member of the Board who is also on the line. We  
12 are scheduled --

13 MEMBER VLIEGER: I'm here.

14 MS. RHOADS: Hi. We are scheduled to  
15 meet from 1:00 to 4:00 Eastern Time today. In  
16 the room with me is Melissa Schroeder from SIDEM,  
17 our contractor.

18 Regarding meeting operations today,  
19 the timing. We'll take a ten-minute break around  
20 2:30, if that works, unless we think we don't  
21 need one. We'll check in about that time.

22 Copies of all meeting materials and

1 any written public comments are or will be  
2 available on the Board's website under the  
3 heading "Meetings" and the listing there for this  
4 Subcommittee meeting.

5 The documents will also be up on the  
6 WebEx screen, so everyone can follow along with  
7 the discussion.

8 The Board's website can be found at  
9 [dol.gov/owcp/energy/regs/compliance/advisoryboard.htm](http://dol.gov/owcp/energy/regs/compliance/advisoryboard.htm).  
10

11 If you haven't already visited the  
12 Board's website, I encourage you to do so. After  
13 clicking on today's meeting date, you'll see a  
14 page dedicated entirely to today's meeting. The  
15 web page contains the publicly-available  
16 materials submitted to us in advance. We'll  
17 publish any materials that are provided to the  
18 Subcommittee. And there, you should also find  
19 today's agenda as well as instructions for  
20 participating remotely.

21 If you are participating remotely and  
22 you're having a problem, please email us at

1 EnergyAdvisoryBoard@dol.gov.

2 If you're joining by WebEx, please  
3 note that the session is for viewing only and  
4 will not be interactive. The phones will also be  
5 muted for non-Advisory-Board members.

6 Please note that we do not have a  
7 scheduled public comment session today. The  
8 call-in information has been posted on the  
9 Advisory Board website, so the public may listen  
10 in but not participate in the Subcommittee's  
11 discussion.

12 The Advisory Board voted at its April  
13 meeting that Subcommittee meetings should be open  
14 to the public, so a transcript and minutes will  
15 be prepared from today's meeting.

16 During Board discussions today, as  
17 we're on a teleconference line, please speak  
18 clearly enough for the transcriber to understand.  
19 When you begin speaking, especially at the start  
20 of the meeting, please state your name so we can  
21 get an accurate record of the discussion. Also,  
22 we've had some problems, so speaking into a phone

1 is generally better than using a speaker phone  
2 for the transcriber.

3 Also, I'd like to let our transcriber  
4 please let us know if you're having an issue with  
5 hearing or anyone or with the recording.

6 As DFO, I see that the minutes are  
7 prepared and ensure they're certified by the  
8 Chair. The minutes of today's meeting will be  
9 available on the Board's website no later than 90  
10 calendar days from today, per FACA regulations.  
11 If they're available earlier, they will be  
12 published before the 90th day.

13 Also, although formal minutes will be  
14 prepared, we'll also be publishing verbatim  
15 transcripts which are, obviously, more detailed  
16 in nature. Those transcripts should be available  
17 on the Board's website within 30 days.

18 I would like to remind the Advisory  
19 Board members there are some materials that have  
20 been provided to you in your capacity as special  
21 government employees and members of the Board,  
22 which are not for public disclosure and cannot be



1 shared or discussed publicly, including in this  
2 meeting. Please be aware of this as we continue  
3 with the meeting today.

4 These materials can be discussed in a  
5 general way which does not include using any  
6 personally identifiable information, such as  
7 names, addresses, specific facilities, if a case  
8 is being discussed, or doctors' names.

9 And with that, I convene this meeting  
10 of the Advisory Board on Toxic Substances and  
11 Worker Health, Subcommittee on Part B Lung  
12 Conditions. I'll now turn it over Dr. Redlich,  
13 who is the Chair of the Subcommittee.

14 CHAIR REDLICH: Hello. Welcome,  
15 everybody. Can everyone hear me?

16 MEMBER WELCH: Yes.

17 MEMBER VLIEGER: Yes.

18 CHAIR REDLICH: Okay.

19 MEMBER TURNER: Yes.

20 CHAIR REDLICH: I think I am now on  
21 the WebEx, but I had thought it was disconnected.

22 So does everyone have the agenda?

1 MEMBER WELCH: Yes.

2 CHAIR REDLICH: And before we start,  
3 does anyone have anything they'd like to add to  
4 the agenda?

5 MEMBER MARKOWITZ: Carrie, this is  
6 Steve Markowitz. So just if, in the discussion,  
7 we could begin to identify some things that you  
8 think ought to be raised at the October full  
9 Board meeting, that'd be good. It doesn't have  
10 to be a separate agenda item. Just as we  
11 otherwise discuss the issues.

12 CHAIR REDLICH: Okay. Very good. I  
13 don't know whether it would be helpful for us if  
14 we update on the other working groups or leave  
15 that for now. We obviously have an upcoming  
16 meeting, so --

17 MEMBER MARKOWITZ: Well, yes. This is  
18 Steven. I and Laurie, John, Kirk, others who  
19 participate in these other committees can weigh  
20 in here.

21 I don't really think an update is so  
22 necessary. If it touches on the issues that we

1 discuss today, then we can just chime in as to  
2 what the other committees are doing about this.

3 But they kind of recognize that Part  
4 B lung diseases are the province of this  
5 Subcommittee. And, I guess, one of the  
6 committees is, at least, eavesdropping on some of  
7 the claims that have been prepared for this  
8 Subcommittee, just to begin to get an  
9 understanding of the claims process. But that's  
10 not really relevant to what this Subcommittee  
11 does, so --

12 CHAIR REDLICH: Okay. Very good. So  
13 I think it took me a couple days of reviewing  
14 everything to come back up to speed. But I  
15 thought it would probably just be helpful for us  
16 to review what our past and the scope our  
17 assignment, specifically with Subcommittee.

18 So I think there's definitely some  
19 overlap between the different subcommittees. And  
20 so it's just a refresher. They're really  
21 specific questions related to Part B lung disease  
22 claims in terms of really the diagnostic criteria

1 used.

2                   And then I actually wanted  
3 clarification because it seems that, once you  
4 start talking about Part B lung conditions and  
5 claims, it's since many people will also file a  
6 Part E, I was actually a little unclear. And,  
7 obviously, the data that we were given included  
8 Part E lung conditions, too. So it might be  
9 helpful to get a little bit of clarification on  
10 that.

11                   My sense was that we were focusing on  
12 Part B. But to address some of those questions,  
13 we are interested in information about some of  
14 the E conditions, such as how many sarcoidosis  
15 cases there are. Is that everyone's  
16 understanding?

17                   MEMBER VLIEGER: Yes. This is Faye.

18                   MEMBER DEMENT: Yes, and this is John.

19 I think, you know, we received data that were  
20 Part B and Part E. And, clearly, there are lots  
21 of people who file under those parts. And so it  
22 becomes a little fuzzy for some of the

1 conditions, you know, how they're accounting, I  
2 think, in the data. But I think the intent of  
3 what we're doing is on par.

4 CHAIR REDLICH: Okay. Okay. Good,  
5 very good. And I just wanted to make sure that  
6 we were all on the same page as far as that goes.

7 So I thought we had asked the DOL for  
8 some questions and got their responses. This is  
9 item number three and four on our agenda. And I  
10 felt we got pretty reasonable responses. But I  
11 wanted to check if other people felt if there was  
12 an area they really wanted more information or  
13 weren't happy with the response.

14 I think, by some of the back and forth  
15 I got a little better appreciation for what was  
16 available and how easily it could be accessed or  
17 not. But did anyone have any specific either  
18 concerns or questions about the responses we got?

19 MEMBER VLIEGER: This is Faye and I  
20 have a question on Item 4 where you had asked  
21 about QTC and the CMC's vetting process. And  
22 they said that they provided a Statement of Work.

1 I'm sorry. I don't know that I ever saw that.

2 MEMBER WELCH: Yes. Faye, this is  
3 Laurie. I looked in on that. I thought maybe it  
4 would be attached to that document. And I think  
5 we've asked that and the SEM Committee also  
6 wanted to see it.

7 CHAIR REDLICH: Okay. So --

8 MEMBER MARKOWITZ: This is Steven.  
9 So, Carrie Rhoads, do you recall offhand whether  
10 we've gotten the Statement of Work from QTC or  
11 the contract under the QTC?

12 MS. RHOADS: Yes. I think we did  
13 provide it. I think it's on the website under  
14 the April meeting. I'll see and --

15 MEMBER MARKOWITZ: Okay.

16 MS. RHOADS: -- go check.

17 MEMBER MARKOWITZ: Yes. I'll check it  
18 as we are on the phone. That's fine.

19 MS. RHOADS: Thank you.

20 MEMBER WELCH: One thing I can add to  
21 that about the Statement of Work was in our other  
22 call about the SEM. I learned that we had asked

1 her what kind of training is given to the CMCs  
2 and the industrial hygienists and that is  
3 proprietary. So we can't see the training  
4 materials, the language for it.

5 MEMBER MARKOWITZ: Yes. This is  
6 Steven. I think this needs to be discussed  
7 further. I guess I'm not used to government  
8 contracting. I can't understand why training  
9 materials used by the contractor couldn't be seen  
10 by the contracting entity. It's not really, on  
11 the surface, an answer that we can accept at face  
12 value.

13 CHAIR REDLICH: Okay. Yes, and I  
14 agree. You know, some of the responses that we  
15 got, I wouldn't say that they were the most  
16 enlightening in terms of they actually have  
17 qualified physicians. I just sort of felt like  
18 asking the question then was probably not going  
19 to be that -- I mean, maybe --

20 MEMBER WELCH: Carrie, this is Laurie.  
21 I'm thinking what they do is they have a contract  
22 where they specify certain things, and then

1 they're leaving it up to their contractor to meet  
2 the specification. So they probably can't really  
3 -- I mean, so when we see the Statement of Work  
4 and we can see what appropriate credentials are,  
5 that might be helpful.

6 CHAIR REDLICH: Yes.

7 MEMBER MARKOWITZ: So this is Steven.  
8 The Statement of Work, as Carrie said, it is on  
9 the list of materials provided for the April  
10 meeting, so --

11 CHAIR REDLICH: Oh, okay.

12 MEMBER MARKOWITZ: -- it's a 29-page  
13 document. So it is there.

14 CHAIR REDLICH: Okay. You know, also,  
15 I felt, in terms of the overlap potentially for  
16 the weighing the medical evidence component. And  
17 talking to, also, Tori Cassano, it seems that I  
18 thought it might help if we sort of focused on  
19 more of what the medical criteria -- because it's  
20 very easy to switch over to the process, just  
21 sort of wondering how the outcome was decided.

22 So I think it is a little unavoidable



1 to ask some process questions, even though it  
2 seems like that the other subcommittee is  
3 addressing those issues.

4 MEMBER WELCH: But I think that  
5 they're -- I mean, they are addressing it. With  
6 the part of this committee, when it's just Part E  
7 that probably nobody else has addressed.

8 CHAIR REDLICH: Okay.

9 MEMBER WELCH: Okay. I think that,  
10 you know, kind of the definition of some of the  
11 statutory language, that I think, you know, it's  
12 the way they did that. And actually, you know,  
13 I'd say they're asking DEEOIC -- and I don't know  
14 how you say that. So, you know, the questions  
15 they ask us about.

16 CHAIR REDLICH: That's right, but I  
17 agree, I agree. Okay. And then we did get quite  
18 a bit of data that we requested. And John has  
19 started to sort of understand it, and, John, I  
20 appreciate your efforts here. Do you want to  
21 maybe just give us a run through of what you did  
22 and your summary?

1                   MEMBER DEMENT: Yes. The summary is  
2 shown here. Let's go back to the end page of  
3 this. So what we had added to the one we had  
4 before were several new fields. One had to do  
5 with the reason for denial and then some others  
6 with regard to when it was referred out to --

7                   CHAIR REDLICH: You know, John. I'm  
8 having a little trouble hearing you. Is anybody  
9 else?

10                  MEMBER VLIEGER: Yes. There's a buzz  
11 on his phone.

12                  MEMBER DEMENT: Is this better?

13                  MEMBER MARKOWITZ: Oh, much.

14                  CHAIR REDLICH: Yes. Thank you.

15                  MEMBER DEMENT: Okay. So we had some  
16 additional fields that were added to the  
17 information we received and the prior data. We  
18 did get the latest CMC referral date, right, it's  
19 referral date. We got an additional field that  
20 referred to the reason for first denial.

21                         So one caveat with regard to this  
22 data. There's a line for each individual that

1 lists the conditions under Part E and Part B that  
2 were filed and it gives various fields with  
3 regard to whether or not it was accepted or  
4 denied.

5 This one field that says "denial  
6 reasons" relates to not every condition in the  
7 file. So what I'm saying is the reason for  
8 denial may or may not specifically relate to one  
9 of those conditions. And I don't know that this  
10 is an issue that can be resolved in the future  
11 whereby each individual has a line item for every  
12 condition that they have filed and we have the  
13 information on acceptance or denial.

14 Anyway, that, be it as it may, what I  
15 tried to do, sort of this initial path was to  
16 look at the other role rates of filing and  
17 approval. I did it for both Part B and Part E so  
18 we could at least contrast where they are and  
19 also summarized the reasons for denial.

20 So if you look at the first table at  
21 Part B and look at CBD, looks like a little over  
22 about 41 percent of the CBD cases are approved,

1 sensitivity about 55 percent, and silicosis about  
2 67 percent.

3 Sort of contrasting down in looking at  
4 Part E, it's really not that much different with  
5 regard to those three conditions. It's about the  
6 same. And if we look at some of the other  
7 conditions, asthma doesn't get approved but about  
8 a little over a third of the time, about the same  
9 as COPD. The interstitial lung diseases are not  
10 getting approved about 75 percent of the time.  
11 And so, you know, we can get at least sort of an  
12 overall picture of approval.

13 MEMBER WELCH: John, could I ask you  
14 a question?

15 MEMBER DEMENT: Yes, of course.

16 MEMBER WELCH: So that the cases in  
17 here that are asthma, COPD, interstitial lung  
18 disease and sarcoidosis, are those cases there  
19 because they have one of the Part B conditions  
20 and those are not --

21 MEMBER DEMENT: Well, yes. The table,  
22 if you look at the data file, there are flags in

1 the data file that says approved under Part B.  
2 And it will have some of these asthma, COPD,  
3 interstitial lung diseases. But I think those  
4 are pulled in sort of as part of the other  
5 diagnosis. I think those are actually, in and of  
6 themselves, taken care of under Part E.

7 CHAIR REDLICH: This is Carrie. I  
8 have a basic question. Each case ID, there are  
9 people, their numbers will have shown twice. So,  
10 like, for than a given number, there may be, you  
11 know, two entries for that. So my assumption was  
12 that the case number was a person, and I just  
13 wanted to be sure about that. You know, the  
14 multiple claims per person issue.

15 COURT REPORTER: This is the  
16 transcriber. Could folks try to use their  
17 handsets when they talk? Things get garbled over  
18 the speaker phones and just hard to follow.

19 MEMBER DEMENT: Yes. I couldn't hear  
20 that either, Carrie. Could you repeat that  
21 question?

22 CHAIR REDLICH: So my question was

1 just in terms of what the person versus a claim.  
2 So there was an ID number for -- and my  
3 assumption was, because there were sometimes  
4 entries with two for the same number, that that  
5 was the ID was a person. But I wanted to just  
6 make sure I was correct about that.

7 MEMBER DEMENT: Well, you know, I  
8 think the case ID, it could be the employee could  
9 file or the survivor could file as well. So that  
10 may be part of that. How that case ID number was  
11 assigned to this data, I do not know.

12 CHAIR REDLICH: But there are two  
13 entries to the same -- because let's say a given  
14 case ID can have multiple entries --

15 MEMBER DEMENT: Yes.

16 CHAIR REDLICH: -- that number. And  
17 so, in your summary, I was wondering how you  
18 handled that.

19 MEMBER DEMENT: I use the case ID as  
20 the unit of measure. So these are cases. You  
21 know, I assume that a case in their data system  
22 was, in fact, a filed case. So, you know, these

1 are cases as opposed to, perhaps, individuals.  
2 And that's probably a good point, but there's not  
3 many in there that are duplicates.

4 CHAIR REDLICH: Okay. Okay. I wanted  
5 to be clear. So each case number was a --

6 MEMBER DEMENT: Right. Each case ID  
7 is counted as a unit. And the other thing in  
8 this data file, we have cases that are presented  
9 to us that don't have one of these conditions.

10 So this data file, it includes more  
11 than just the conditions that we specifically ask  
12 for, the lung conditions. But the medical  
13 conditions for those are left blank. Those are  
14 not counted. We're only counting the ones with  
15 conditions that we specifically have asked for.

16 So we ask for reasons -- and let's  
17 move onto reasons for denial. And what I found  
18 in that was the categories are listed in this  
19 table. They range from an employee not covered  
20 down to survivor not eligible.

21 And so, I tried to just get an overall  
22 look at Part B and Part E in terms of the

1 percentage that were -- I mean, the distribution  
2 list of the reasons for denial.

3           So you look under Part B and under  
4 Part E. And the Part B, the medical information  
5 being insufficient is about half the reasons for  
6 denial. Negative causation, about 11 percent  
7 under B, but it's much higher under Part E. It's  
8 up to about half, negative causation result.  
9 Otherwise, the other distributions are reasonably  
10 consistent. The medical condition not covered is  
11 a much higher portion under Part E where you  
12 could file for lots of different things.

13           But that is about as far as I can go.  
14 And I just want to make sure everybody  
15 understands that, on each data line that's filed,  
16 there could be multiple conditions. And the  
17 employee can file for CBD, COPD, lots of  
18 different things.

19           What this data file did not provide  
20 was a specific reason for each of those  
21 conditions separately. They simply provided, you  
22 know, one, for the first reason for denial. So



1       there may be some other types of data that we  
2       could get. I'm not sure. I'm not clear, you  
3       know, how these were pulled from their main data  
4       file.

5                   CHAIR REDLICH: Okay. And, you know,  
6       just one question that I have is, you know, the  
7       cost-benefit ratio of sort of requesting  
8       additional data. Or sort of then they'll say,  
9       you know, what we have, that --

10                   MEMBER DEMENT: Yes. I --

11                   CHAIR REDLICH: -- to use that, just  
12       to --

13                   MEMBER DEMENT: Yes. I don't know if  
14       it's worthwhile, going much further. One thing  
15       that we discussed in our meeting on the SEM is  
16       the category specifically of the negative  
17       causation result.

18                   You know, some of the other issues are  
19       more fundamental to the program, but we're not  
20       going to have any impact on that. They're built  
21       into the implementing regulations.

22                   For example, the employee not covered,

1 the maximum benefit and that, those things we  
2 cannot deal with. So I think, you know, I would  
3 like to review a lot of -- I don't want to spend  
4 a lot of time reviewing case files where the  
5 reason for denial is the employee is not covered  
6 or the maximum benefits are met. If I'm going to  
7 spend time reviewing it, I'd rather review a  
8 large number that have the negative causation  
9 result.

10 MEMBER WELCH: Or the medical  
11 condition not covered because, you know, it's  
12 interesting if that actually is a condition. I  
13 guess there weren't that many of those. Medical  
14 information insufficient is also a really good --

15 MEMBER DEMENT: Yes, it is.

16 MEMBER WELCH: -- one. I'd like to  
17 understand that one. But, John, let me ask you  
18 one question. So if somebody had four diagnoses.  
19 So the first reason for denial could have been  
20 they denied one of the diseases. But then, later  
21 on, accepted -- you know, they denied the person  
22 for silicosis but accepted CBD, for example.

1 MEMBER DEMENT: Yes. And I --

2 MEMBER WELCH: And the data didn't  
3 reflect that level of complexity.

4 MEMBER DEMENT: No. Because the data  
5 files are listed on the case ID, which can have  
6 multiple conditions on the same line.

7 MEMBER WELCH: Right.

8 MEMBER DEMENT: What will be better if  
9 we added -- I didn't know -- and yes, these may  
10 not be worth the time. But if we had, for each  
11 individual, multiple line listings for each  
12 condition. You know, if they had a line listing  
13 for the CBD and the COPD, and have specific  
14 information for the reason for denial for that  
15 condition, which I don't think this file gives  
16 us.

17 And, for that reason, I didn't feel  
18 like it was worth a lot more time looking at it  
19 in lots of different ways because it would be  
20 misleading. For example, I could, you know, look  
21 at these reasons and stratify, you know, by the  
22 conditions that were in the file. But I don't

1 think it's meaningful because it's not  
2 specifically tied to those conditions.

3 MEMBER WELCH: Right. Right. And is  
4 this the whole program from the beginning? I'll  
5 pull out the data file again. So this is all  
6 cases for all years?

7 MEMBER DEMENT: Well, I can't answer  
8 that. The data file contains over 22,000 cases.

9 MEMBER WELCH: Yes. So that's  
10 probably the complete data file?

11 MEMBER DEMENT: That's my  
12 understanding that it's likely that, but --

13 CHAIR REDLICH: It seems that one  
14 thing that I tried putting together all of the  
15 years. It does seem that there has been some  
16 changes in terms of trends as far as, you know,  
17 which claims are more common and also some  
18 changes in the acceptance or denial rates.

19 MEMBER DEMENT: Right.

20 CHAIR REDLICH: So one thing that I  
21 had started to do that I was getting too many  
22 numbers and I didn't get it all organized. But

1 it does seem that the last couple of years are  
2 most relevant in terms of just, in a sense,  
3 moving forward.

4 MEMBER DEMENT: Right.

5 CHAIR REDLICH: Well, and some of  
6 those years are different from the prior years.  
7 To me, it seems right that there's an increasing  
8 number of parts in claims as a general trend,  
9 which probably makes sense in terms of COPD.

10 But there was still a reasonable  
11 number of beryllium sensitization. But it seems  
12 that the new CBD claims have gone down, just in  
13 terms of -- and that was another piece, I guess.  
14 The timing of the whole process, I wasn't totally  
15 clear on. Because we have a date, I think -- I  
16 didn't know what was the case create date was, so  
17 I --

18 MEMBER DEMENT: Well --

19 CHAIR REDLICH: You know, because  
20 that's getting probably confusing because, two  
21 years later, a given person could have another  
22 claim.

1 MEMBER DEMENT: Right.

2 CHAIR REDLICH: And then would  
3 honestly be a different date.

4 MEMBER DEMENT: Right.

5 CHAIR REDLICH: And that's why I got  
6 hung up on the date. But I was thinking that it  
7 might be good for us to let's say compare the  
8 last two years to prior in terms of --

9 MEMBER DEMENT: Yes.

10 CHAIR REDLICH: -- if they say it's  
11 acceptance or denial of claims.

12 MEMBER DEMENT: Yes. Well, there is  
13 a field for the day of diagnosis for these  
14 conditions. There's a lot of missing data in  
15 those fields. And so, it's possible to perhaps  
16 look at some of that.

17 There's another field, the first  
18 calendar year of approval and the first calendar  
19 year of denial. And you could stratify this  
20 information by, you know, some date ranges to  
21 see, you know, sort of the trends. That might be  
22 possible to repeat, if you will, the first table

1 and stratify it by the most current two or three  
2 years versus prior. I can do that.

3 MEMBER MARKOWITZ: The other thing,  
4 John, this is Steven, is if there are large  
5 numbers of cases for which there's only a single  
6 condition --

7 MEMBER DEMENT: Right.

8 MEMBER MARKOWITZ: -- in claims, then  
9 if you just looked at those. For instance, I'm  
10 thinking that could even be the majority, looked  
11 at the reasons for denial of those, then we get  
12 more clarity as to the reasons. And it's not  
13 muddied by multiple conditions.

14 MEMBER DEMENT: Well, unfortunately,  
15 I have to take a look at it in more detail, look  
16 at that. I think a single line item may be the  
17 majority, but there's a substantial number that  
18 aren't. But it could be looked at it that way.  
19 For example, only beryllium sensitivity.

20 MEMBER WELCH: But I think Steven is  
21 saying beryllium sensitivity with no other  
22 diagnosis.

1                   MEMBER DEMENT: Yes. That's what I  
2 mean, yes.

3                   MEMBER WELCH: Yes.

4                   MEMBER DEMENT: Yes. You know, there  
5 are multiple line items on the file.

6                   MEMBER WELCH: Yes.

7                   MEMBER DEMENT: We could restrict this  
8 analysis to those who have single medical  
9 conditions filed. I can do that.

10                   MEMBER MARKOWITZ: Right. And if that  
11 turns out to be the majority of claims, then we  
12 can compare that with the table we're looking at  
13 right now and eyeball the differences.

14                   MEMBER DEMENT: Yes. Yes. I can do  
15 that and I can look at it by year. So those are  
16 two updates that I can do for it.

17                   CHAIR REDLICH: Yes. And, also, you  
18 obviously sort of lumped diagnoses together which  
19 seems make to sense, too, for the Part B  
20 conditions.

21                   Do you have other thoughts in terms of  
22 what else would make the most sense to do with



1 this data, John, just since you've played with it  
2 the most?

3 MEMBER DEMENT: Well, you know, the  
4 objective was to maybe direct how we look at  
5 specific claims in great detail. And also to  
6 give some idea, sort of more globally, what  
7 things look like as opposed to looking at, you  
8 know, a smaller sample of claims. And I guess  
9 that objective, you know, in my mind, will be  
10 somewhat accomplished if we can do some of these  
11 additional analyses that we've discussed so far.

12 CHAIR REDLICH: Yes. See, I agree.  
13 I think it is helpful. I thought also the yearly  
14 breakdown was also helpful that you had done.

15 MEMBER DEMENT: Right.

16 CHAIR REDLICH: It's a little harder  
17 to summarize that data. And we could, by looking  
18 at it, maybe for this, lump the last couple of  
19 years and then compare that to the earlier or  
20 whatever. I think it'd probably be -- you had  
21 some natural breaks would be in terms of  
22 grouping.

1                   MEMBER DEMENT: Yes. I'll take a look  
2 at that and see where we get sufficient numbers  
3 in the tail end. It makes sense to do it that  
4 way.

5                   CHAIR REDLICH: Yes. And, see, I know  
6 that we, obviously, can't depend on the data from  
7 the -- I can't pronounce it properly, but the  
8 EEOICPA claimants, their website. They've, I  
9 think, taken the data that was available from the  
10 DOL and I don't know if you've all looked at it.

11                   But they actually have -- because the  
12 DOL data, each year, they gave the number of  
13 additional claims gathered, so you have to do  
14 some arithmetic to see how many new ones. I was  
15 just sort of curious whether these numbers seem  
16 generally aligned with the numbers that they had  
17 and I feel that just a quick eyeball needs to be  
18 in the right realm.

19                   MEMBER DEMENT: Yes. I looked at it.

20                   CHAIR REDLICH: It's just a little bit  
21 reassuring in terms of that it's not total -- if  
22 we're all starting with similar data.

1                   MEMBER DEMENT: Yes. Yes, I looked at  
2 it, too, just in the same way, just as a rough  
3 eyeball.

4                   CHAIR REDLICH: Yes. And so, I was  
5 sort of happy to see that it was exactly similar.

6                   MEMBER DEMENT: Yes. We don't have  
7 any other way of sort of comparing apples to  
8 apples. But it does look similar to the numbers.

9                   CHAIR REDLICH: Okay. Okay. So then  
10 you had also done that? Okay.

11                   MEMBER MARKOWITZ: Carrie, it's  
12 Steven. I just want to comment on this table.

13                   Now, looking at Part B, one of the  
14 other committees here, SEM spent a lot of time  
15 talking about exposure and the problems of  
16 identifying exposures.

17                   And under the Part B reasons for  
18 denial, it would appear for silica and beryllium  
19 that the issue is predominantly medical and not  
20 exposure. It's predominately that the claimant  
21 can't prove the diagnosis to the claims  
22 examiner's satisfaction.

1           Whereas there are -- to give you a  
2           number of negative causation cases, they're  
3           proportionally much fewer. And so, the issue  
4           really isn't exposure, or much less so exposure  
5           than disease. And that's kind of the opposite  
6           with the Part E, actually, which makes a lot of  
7           sense. I mean, it conforms with sort of how we  
8           look at this thing. And it also is why, I guess,  
9           this Subcommittee was really directed towards the  
10          medical evidence around the Part B claims.

11           MEMBER DEMENT: And that's --

12           CHAIR REDLICH: Because I --

13           MEMBER DEMENT: -- consistent with the  
14          handful of claims that I've reviewed. This is  
15          John Dement as well.

16           MEMBER WELCH: So can you hear me  
17          there? John's essentially has two things. It  
18          has the overall approval or denial and diagnosis,  
19          and then it has the reasons for the whole  
20          population, B and E. So we can't really see the  
21          silicosis except in comparing the B and the E  
22          cases. Is that what you were talking about?

1                   MEMBER DEMENT: Right. Yes, that's  
2 exactly right. But, you know, if we have enough  
3 single diagnosis silicosis cases, then we can  
4 look at these reasons in more detail by those  
5 sort of breakouts and hopefully we get a little  
6 more clarity.

7                   MEMBER WELCH: And necessary. And  
8 that would help benefit, the idea is to  
9 eventually find cases that will illustrate  
10 whatever the problems may be. Then we're  
11 getting, you know, if you can find, you know, you  
12 will know the denial is for that specific  
13 diagnosis. And then we can find the ones that  
14 are in more recent years. Those could be the  
15 first places to start, even though they're not  
16 random. You know, they're not a random sample.  
17 Because that person only --

18                   MEMBER DEMENT: We don't have enough  
19 person power to do a random --

20                   MEMBER WELCH: Right, exactly. And it  
21 doesn't really matter because actually --

22                   MEMBER DEMENT: So --

1                   MEMBER WELCH:  -- what we really want  
2                   to do is find the group that -- we want to  
3                   understand, I'd like to understand, you know, how  
4                   they get a negative causation result.

5                   MEMBER DEMENT:  Right.

6                   MEMBER WELCH:  Particularly, you know,  
7                   if they have a diagnosis of chronic silicosis.  
8                   And so, under Part B, you know, it shouldn't be a  
9                   causation issue if the diagnosis is correct.

10                  Anyways, so looking at some of these  
11                  files would be very helpful.  But, I mean, I  
12                  know, John, you went through some.  It's, at this  
13                  point, I mean, they're interesting.  But they're  
14                  not necessarily relevant to what's kind of  
15                  happening now, unless we can get cases that were  
16                  the most recent to be adjudicated, so --

17                  CHAIR REDLICH:  Okay.  So the  
18                  silicosis, chronic silicosis, the last couple of  
19                  years based on -- John, you had broken up the  
20                  tools by year.

21                  MEMBER DEMENT:  Well, I did in the  
22                  other data file that we --

1 CHAIR REDLICH: The initial one?

2 MEMBER DEMENT: Yes.

3 CHAIR REDLICH: But I'm not sure --  
4 and you can figure it out by the -- that the  
5 conditions filed by year, I don't think you had  
6 sorted that out by year?

7 MEMBER DEMENT: No. I think, at the  
8 time that I did that one, the conditions, well, I  
9 have to go back. I have to do a process in this  
10 long text of things to pull those specifically  
11 out, which I've done for the new data set.

12 CHAIR REDLICH: Yes. Okay. Because  
13 the total number of -- you know, sort of a more  
14 manageable number in terms of the CBD, silicosis,  
15 in terms of yearly cases, it's not happening. I  
16 guess it's the approved, the silicosis is  
17 actually more than I had thought. But I think  
18 where you should be able to get a pretty good  
19 feel for, like, the beryllium disease. Because  
20 it's just not that -- the numbers aren't that  
21 huge for the past couple of years. If you just  
22 break down by the yearly breakdown.

1                   MEMBER DEMENT: Well, what I'll do is  
2 I'll take the new data and break it down by the  
3 more recent, say, two-year period and look back.  
4 Is that going to be acceptable?

5                   CHAIR REDLICH: That's sounds good,  
6 yes. And I appreciate all you have done with it.

7                   MEMBER DEMENT: Okay. Just --

8                   CHAIR REDLICH: Okay. Because part of  
9 the decision --

10                  MEMBER DEMENT: -- I'll proceed --

11                  CHAIR REDLICH: -- making, moving  
12 forward, to me, seems to relate to sort of the  
13 magnitude of cases that you have. I mean, you  
14 know, the total number of sarcoid is pretty  
15 small.

16                  MEMBER DEMENT: Oh, yes.

17                  CHAIR REDLICH: To me, it's the  
18 sarcoid and person worked in the place of any  
19 beryllium, you could decide that that was  
20 sufficient. You know, you may put based on also  
21 I think any decision making about possibly  
22 simplifying some of the decision making by using



1 some presumptions. Then having the total number  
2 of cases is helpful in terms of thinking about  
3 how long we deal with any presumptions.

4 MEMBER VLIEGER: Dr. Redlich, this is  
5 Faye. If I could interject just a moment here.

6 I think the reason for the high denial  
7 numbers is that when the CMC receives the  
8 referral about whether or not a claim is CBD or  
9 sarcoidosis or any of the conditions that could  
10 result from the Part B lung conditions we're  
11 looking at. They are not given the instructions  
12 per the procedure manual. And then they base  
13 their decision on their experience, which this  
14 goes back to the vetting of the CMCs.

15 And when I have asked this question or  
16 when I've had a CBD claim, the person has a  
17 positive blood test. They have a restrictive and  
18 an obstructive lung disease. When the CMC looked  
19 at it, he said, well, no, this isn't beryllium  
20 disease because nobody told me it was beryllium  
21 disease and the claim was denied.

22 So this goes back to weighing the

1 medical evidence and the vetting of the QTC  
2 physicians. Even just to the procedure manual  
3 standard for what the department accepts as a CBD  
4 diagnosis.

5 CHAIR REDLICH: Yes. So thank you.

6 And then, probably, I think it goes back to the  
7 point that, I think, Laura had in terms of in the  
8 prior request of seeing what, you know, sort of  
9 educational or guidance documents the physicians  
10 are being provided, to help them in the decision  
11 making, correct? Because we don't know if it's  
12 actually the same thing that's in, you know, the  
13 act or in the information that we have.

14 MEMBER WELCH: And so Part B, you  
15 know, it's really Part E that would allow any  
16 kind of flexibility because Part B is pretty  
17 specific, you know.

18 CHAIR REDLICH: I know Part B is very  
19 specific. But do we know, for sure, that  
20 contract providers are being, what wording they  
21 are actually given to follow?

22 MEMBER WELCH: We don't know anything

1 about them, but my sense is that, because they're  
2 very specific. I don't know how many of the Part  
3 B claims got a medical review and, you know,  
4 medical review for causation.

5 Then the notes back from the DOL folks  
6 is they can't tell us that. They can tell us  
7 there's CMC information done but not specifically  
8 why. So, you know, if you look at files, we'll  
9 get an idea. I think looking at denied files  
10 will give us an idea.

11 CHAIR REDLICH: Okay. And so, in the  
12 example that we just heard was then where it's  
13 CBD was the specificity that is in the -- you  
14 know, as criteria for diagnosis. But we still  
15 don't know what educational pieces are being --  
16 you know, what framing is really being done of  
17 the contract providers, correct?

18 MEMBER WELCH: Right. And I'm sort of  
19 slowly looking through the training on each scope  
20 of work to see if there's anything useful in  
21 there. I have been looking at the same time, so  
22 I'm not really reading it. I'm just still

1 looking there.

2 CHAIR REDLICH: And I also agree that  
3 reviewing some of the cases will help clarify, I  
4 think some of these. Because the few that I  
5 looked at, it appeared to me that the kind of  
6 stated criteria weren't necessarily the ones that  
7 were being consistently used.

8 MEMBER VLIEGER: That's my experience,  
9 and this is Faye.

10 CHAIR REDLICH: And that could be good  
11 and bad in terms of -- I mean, I've reviewed one  
12 where there was a diagnosis of sarcoid. There  
13 was a BeLPT that was negative. And, basically,  
14 the presence of this was presumed for the  
15 purposes of the computation to be CBD. So that's  
16 actually not following the written rules. So I  
17 think we'll try and look at these.

18 Okay. So before we move on from --  
19 any other thoughts, comments, suggestions as far  
20 as the data component? And John, we most  
21 appreciate your willingness to do this.

22 MEMBER DEMENT: You're welcome.

1 CHAIR REDLICH: Okay. So our next  
2 item, let me just get our agenda up and let's see  
3 with it. And we've been over this. I think that  
4 a key piece that we obviously want to discuss is  
5 how we review these cases and sort of extract  
6 these for information from them and how we divvy  
7 up the work. So to probably --

8 COURT REPORTER: This is the  
9 transcriber. I missed that.

10 CHAIR REDLICH: -- jumpstart the  
11 process --

12 COURT REPORTER: It's just difficult  
13 to understand.

14 CHAIR REDLICH: Oh, I'm sorry. Well,  
15 I think the next item in terms is, really and a  
16 big piece we need to discuss, is reviewing the  
17 cases that we have received. And I think we've  
18 all sort of reviewed a few of them to get a feel  
19 for what material we've been given.

20 So I had thought -- and I'd like  
21 everybody's input. I had developed some initial  
22 template forum that we could, you know, divvy up

1 dates. And, you know, for everybody reviewing  
2 some, we didn't -- you know, so if people wanted  
3 to review more, they could. But at least so that  
4 we review all that we'd been given. And I  
5 thought it would helpful if we sort of had  
6 similar criteria or new information that we were  
7 addressing on these cases.

8 So I had drafted an initial sort of  
9 form to use. And my guess is, with any sort of  
10 form, like, if that's being used on a couple  
11 cases, you realize you have, you know, lines that  
12 you don't need or lines that you need to add.  
13 But let me see what other people's thoughts are.  
14 Anyone?

15 MEMBER WELCH: I'm just getting back  
16 to looking at it.

17 CHAIR REDLICH: And I think there's a  
18 tradeoff between trying to extract too much  
19 information versus, you know, how user-friendly  
20 the form is.

21 MEMBER WELCH: You know, I think going  
22 in, we'll probably know the answers for some of

1 these questions. You know, if we're choosing out  
2 of the data that John has, really we know that it  
3 was this criteria of having it to be, and so the  
4 reason it was denied.

5 And then we have the patient doesn't  
6 have the disease, couldn't reach the diagnosis.  
7 We do know sort of it was either medical, the  
8 diagnosis, or a medical negative causation. They  
9 don't have a separate category for inadequate  
10 exposure. I think that's probably the negative  
11 causation, and so in the --

12 MEMBER DEMENT: We have cases that  
13 have been given to us to review.

14 MEMBER WELCH: Well, it shows based on  
15 the criteria that we asked them for.

16 MEMBER DEMENT: Right.

17 MEMBER WELCH: Yes. So it's going  
18 back to that document.

19 MEMBER DEMENT: Those cases are quite  
20 voluminous.

21 CHAIR REDLICH: Yes. And the couple  
22 that I looked at, there, you know, could be more

1 than one diagnosis and, you know, one or more of  
2 those diagnosis could be addressed. But I think  
3 it was also, to me, at least, seeing what the  
4 sort of number one diagnosis was, and this is  
5 just a handful that I had looked at.

6 MEMBER MARKOWITZ: This is Steven.  
7 One issue is pre and post-'93 for the CBD cases.  
8 We need to add that.

9 But, you know, we know, from John's  
10 work, that the most common reason for denial, the  
11 Part B cases, medical information insufficient.  
12 So we, you know, really need to drill down on  
13 exactly what is missing or what the claimants  
14 lack for cases that are denied. And I'm not sure  
15 that the detail under two fully gets at that.

16 CHAIR REDLICH: Okay. Yes, I think it  
17 is, too.

18 MEMBER MARKOWITZ: And that one, it  
19 would require, you know, looking at the pre and  
20 post-criteria specifically. And then maybe  
21 looking at each case, which criteria are met and  
22 which aren't and we can --



1 CHAIR REDLICH: Yes.

2 MEMBER MARKOWITZ: --the hold up.

3 CHAIR REDLICH: That's a good  
4 suggestion. I think I should because I think  
5 part of the reason of that form is just to go off  
6 the first in reviewing the cases. So I should  
7 probably have a little checkmark for, you know,  
8 is it clear which criteria were used?

9 And I will say the couple beryllium  
10 cases I looked at, you know, in the more recent,  
11 current tense. And I wasn't -- so some of the  
12 criteria depends on when the initial diagnosis  
13 was made, the year, but it's in the report.

14 And so, I should probably make a note  
15 for us to try and figure out which criterial were  
16 used, and is that appropriate? So at least to  
17 address that question.

18 I also wanted to somehow have cause of  
19 the person, too. Because there can be the  
20 scenario where there's incomplete information  
21 that you could get, and then there's just  
22 incomplete information that you're not able to

1 get.

2 So let's say someone never had a BeLPT  
3 or didn't have a biopsy, so you're lacking that  
4 information. You're lacking information. It  
5 could either be it was done but you don't have  
6 the information, or it wasn't done at all. But  
7 in reviewing the cases, it would be helpful to  
8 differentiate those.

9 MEMBER WELCH: If you can.

10 CHAIR REDLICH: If we can. Exactly.  
11 But because I think there's always the necessity  
12 for clinical decision making within incomplete  
13 information. So just trying to get information  
14 that you're probably never going to get, so --

15 MEMBER WELCH: I'm looking at one of  
16 the final decisions, a sarcoidosis case. And it  
17 lists, under Part B of the act, it establishes  
18 the services. And then says since the medical  
19 records submitted indicated that I missed the  
20 sarcoidosis in 2010. Your case was evaluated  
21 under the post-'93 CBD criteria. So maybe we'll  
22 find that in the final decisions.

1                   CHAIR REDLICH: Okay. I did see --  
2 one of the cases did review, you know, this issue  
3 about the reason for denial was a sarcoid where  
4 CBD was denied because there was no documented  
5 exposure, and that the --

6                   MEMBER WELCH: That's a weird one.  
7 Because I think when you look at the Part B law,  
8 exposure is presumed.

9                   CHAIR REDLICH: That's right. That's  
10 right. I need to --

11                  MEMBER WELCH: Maybe it was a Part E  
12 and then Part E can be handled in a lot of  
13 different ways.

14                  CHAIR REDLICH: Okay.

15                  MEMBER WELCH: So do you have a  
16 thought about do we review the cases that we were  
17 sent, or in some systematic way? Or we going to  
18 try to take a subset of those where the final  
19 decision was the most recent?

20                         In terms of one way to do it is to  
21 look at the -- I mean, even the -- since all the  
22 cases have an ID number on them, we could

1 potentially, ourselves, pick out the ones that  
2 are, you know, in the last five years as opposed  
3 to previous years.

4 CHAIR REDLICH: Yes. So the total  
5 number that we were sent, I averaged this off,  
6 how many was the total number? I think it was  
7 probably, like, 50? But what I was thinking is  
8 that maybe it would be nice before our October  
9 meeting to at least have a quick look at as many  
10 of these as we could.

11 And that maybe I could update the form  
12 with some of the suggestions here. We put aside,  
13 you know, everybody divvy out, like, 50 cases  
14 making sure everybody is reviewing some. And  
15 then maybe after one or two cases, people just  
16 give me some feedback in terms of, do we want to  
17 modify the form to make it more user-friendly or  
18 to get the information we want, and then  
19 continue.

20 I don't have a total, because I must  
21 say that frankly I didn't open every little  
22 document on them. So what I did, I'm hoping that

1 my preference would be to try and look at a  
2 larger number. If not, it seemed that some of  
3 the documents just weren't that relevant for what  
4 we need to do. So it wasn't quite as onerous as  
5 it seems.

6 MEMBER WELCH: I mean, I think, you  
7 know, looking at the --

8 CHAIR REDLICH: Maybe that's an  
9 optimistic view of that.

10 MEMBER WELCH: I mean, the final  
11 decision letter does really -- if it's done well,  
12 it lays out all the facts in the case. And then  
13 if you want to find some of the supporting  
14 documentation, that's a little bit harder to  
15 find. Because there's all these different PDFs  
16 and they're not labeled.

17 CHAIR REDLICH: That's right. But at  
18 least with some of the cases, that letter, to me,  
19 was, like, okay, this makes sense. You know,  
20 this was done appropriately and I agree with it.  
21 So I think some of them would be rather quick  
22 because it seems reasonable.

1                   And just reading those letters, it  
2                   leads to some idea, or at least me. And I know  
3                   you're more familiar with the process, Laura, and  
4                   a feel for, you know, how it's actually worked.  
5                   But then some of them will be -- and particularly  
6                   those with the denials, understanding, you know,  
7                   then looking further.

8                   And I think even the ones that were  
9                   accepted, if they're accepted but we think, yes,  
10                  it's accepted, but did they use the criteria that  
11                  we are understanding of what criteria should be  
12                  used? I think it's important for us to note  
13                  because my sense is one of the issues is  
14                  consistency.

15                  So if there are cases that are  
16                  approved but we're sort of thinking, wait, I'm  
17                  not quite sure why--it might be meaningful-- but  
18                  so this issue of consistency. Because talking to  
19                  some of the pulmonary clinicians involved, that  
20                  was one of their concerns.

21                  MEMBER WELCH: Yes. No, I think  
22                  that's right.

1 CHAIR REDLICH: Okay.

2 MEMBER WELCH: So how many total files  
3 did you get? Wait a second.

4 CHAIR REDLICH: I didn't either and I  
5 don't have the disc with me. But that's on  
6 another computer to see it on there. Does anyone  
7 know the total number?

8 MEMBER MARKOWITZ: This is Steven. I  
9 can figure it out and toward the end the  
10 conversation, I'll let you know.

11 CHAIR REDLICH: Okay. Yes, I think  
12 it's just that --

13 COURT REPORTER: There's a lot  
14 background noise. It's getting difficult for me  
15 to focus.

16 MEMBER WELCH: He's talking over you.

17 CHAIR REDLICH: I have the number that  
18 we requested, but in terms of what we actually  
19 received is what I'm not clear.

20 MEMBER MARKOWITZ: While we figure  
21 that out, I just want to remind you, in terms of,  
22 Carrie, what you're talking about, reviewing

1 cases and changing the template, et cetera, is  
2 that we have three and a half weeks until the  
3 full meeting. So just if --

4 CHAIR REDLICH: Yes.

5 MEMBER MARKOWITZ: -- you think that  
6 we should just lay out a time table over the next  
7 three weeks.

8 CHAIR REDLICH: Okay. Okay. So  
9 you're going to find that, figure out the total  
10 number of cases?

11 MEMBER MARKOWITZ: Right. All right.

12 CHAIR REDLICH: So, okay. Ideally, if  
13 we could round to the number, if two people  
14 review each one, there would be -- but while  
15 Steven is figuring that out, I would propose,  
16 seeing we're on such a short time frame, is that,  
17 you know, I could modify this form and send it  
18 out tomorrow, you know, with suggestions from  
19 today. If, in the next day or two, people had a  
20 chance to just look at one or two cases or have,  
21 you know, other suggestions to how to fix up the  
22 form to make some edits and get it back to me.



1 MS. RHOADS: Okay.

2 CHAIR REDLICH: Because I think if the  
3 form sort of has what we want, it will, like,  
4 just in terms of us being consistent of what  
5 information we pull out. And then I don't know  
6 what people's -- their time is like for the next  
7 few weeks. The more of these cases that we could  
8 look at.

9 MEMBER WELCH: Really, when we get to  
10 the meeting, we're not really going to have -- we  
11 won't have done any summary across the group  
12 unless you're planning to have us send these  
13 forms in.

14 CHAIR REDLICH: I've been thinking if  
15 you sent the form back, I could at least attempt  
16 to summarize, you know, what we've got. If  
17 people thought, you know, that it would be  
18 worthwhile for us to just have a call among  
19 ourselves in between or we could also, in terms  
20 of if we come up with something for obstacles.

21 MEMBER WELCH: And given the fact that  
22 if we had a call on each, several of us, then we

1 could split up the time, but --

2 (Simultaneous speaking.)

3 MEMBER WELCH: And then part of it is  
4 what you want to do. I mean, I think we need to  
5 have a call to discuss the reviews before we make  
6 any conclusions in front of a big group. That  
7 would be my request. Because I think they're  
8 going to be -- I don't think there's probably an  
9 easy way to capture all this information on the  
10 form that gets the nuances of what we want to  
11 know. I think it would be --

12 CHAIR REDLICH: Well, my guess is also  
13 that, just from similar, other types of cases,  
14 that some of them will be clear cut. But then  
15 there will be some that, you know, what I'd like  
16 to see what everyone else thought about it, or  
17 exactly.

18 So my understanding of the need for --  
19 it sounded like we had requested that the  
20 Subcommittee, these calls be public, but that we  
21 could have a -- we're not prohibited from having  
22 a nonpublic call.

1                   MEMBER MARKOWITZ: No, no. This is  
2 Steven. And Carrie Rhoads, you can correct me.  
3 But if the entire Subcommittee meets, then our  
4 promise is that there would be public access to  
5 that meeting.

6                   CHAIR REDLICH: Yes. Is that correct,  
7 Carrie?

8                   MS. RHOADS: That's right.

9                   MEMBER WELCH: I think that is what we  
10 -- at the meeting, everybody was pretty emphatic  
11 that they wanted to do that. You know, we could  
12 talk one-on-one with each other but not really  
13 all together without other people listening in.

14                  MEMBER MARKOWITZ: I have a number of  
15 cases, if you want. The beryllium sensitivity  
16 20, CBD 20, silicosis 10. And if you're  
17 interested in pneumoconiosis and sarcoidosis,  
18 it's about 20 pneumoconiosis and the same  
19 sarcoid. So 20 of each for each of the four  
20 categories and 10 of the chronic silicosis.

21                  MEMBER WELCH: That's 90, yes.

22                  CHAIR REDLICH: Yes.

1 (Laughter.)

2 MEMBER WELCH: And so, I also know the  
3 sarcoidosis cases are interesting in that, if  
4 somebody had a diagnosis of sarcoid. Like, one  
5 of the cases just randomly I looked at was one  
6 that I submitted a letter explaining why the  
7 worker would have a negative BeLPT.

8 So if you didn't get accepted at a CBD  
9 case, it gets accepted as a sarcoidosis case. So  
10 those would be worth looking at. The other  
11 pneumoconiosis, maybe we could strip them out.  
12 That would be my thought. But the beryllium  
13 sensitivity CBD, the sarcoidosis, and the  
14 silicosis are all very relevant to the questions  
15 they asked us.

16 CHAIR REDLICH: Yes. And so, I  
17 believe of the 20, it's been some that there's --  
18 originally, the request was sort of half accepted  
19 and half denied. But I don't know if we -- and  
20 altogether.

21 MEMBER WELCH: You have to open the  
22 file to know. I mean, they're not written that

1 way.

2 CHAIR REDLICH: You just don't know  
3 right now.

4 MEMBER WELCH: I mean, they may be.  
5 But you couldn't say, all right, let's just look  
6 at their denied claims without another some kind  
7 of data sort to identify those IDs.

8 CHAIR REDLICH: Okay.

9 MEMBER WELCH: The ones I looked at,  
10 it's the case number, and then you open it and  
11 see the way it is. Assuming they are in that  
12 vein, because the document we got back from Doug  
13 that, you know, in response to the request. All  
14 right, good to know.

15 CHAIR REDLICH: So Steve, I know that  
16 the other subcommittee had the time to sort of  
17 review some of the cases. How many was there to  
18 look at?

19 MEMBER WELCH: The SEM committee kind  
20 of had to review these because they couldn't give  
21 us cases that had data to see. So people looked  
22 at them just to understand what a final

1 determination looked like, but not as anything  
2 more systematic. No comment about the other  
3 committees.

4 CHAIR REDLICH: Yes. About the claims  
5 process, that committee has sort of divvied out  
6 reviewing the cases. But I didn't know if they  
7 were attempting -- you know, if they had selected  
8 a certain member to review. Do you know, Steve?

9 MEMBER MARKOWITZ: Yes, yes. No, but  
10 I don't think the other committees review these  
11 cases, if going to be helpful to the questions of  
12 this Subcommittee.

13 CHAIR REDLICH: Okay. So --

14 MEMBER WELCH: There are four -- how  
15 many people on the committee, five, four  
16 officially? And if you wanted to overlap some  
17 files, that means everybody would be reviewing,  
18 you know, 25 or 30 cases. If you wanted every  
19 file reviewed by two people, it's a lot more than  
20 that.

21 CHAIR REDLICH: Yes. So I think we  
22 should, for now, forget about everyone reviewing

1 these, you know, twice. But, I mean, I think  
2 reviewing 20 cases would be feasible. From the  
3 three or four that I looked at, some of them were  
4 pretty quick, I think.

5 MEMBER WELCH: But somebody needs to  
6 make an assignment of somebody needing to --

7 CHAIR REDLICH: Yes, definitely.

8 MEMBER WELCH: -- figure out which  
9 cases you want us all to review.

10 CHAIR REDLICH: Okay. So what if we  
11 planned this, that we assigned everybody 20 cases  
12 but maybe a mixture. You know, like, five of  
13 this and five of that rather than all of one  
14 group.

15 MEMBER WELCH: That makes sense.

16 CHAIR REDLICH: And then people could  
17 review those. Anybody who wanted or was curious  
18 to review some additional, you're welcome to.  
19 And I agree with your prioritizing in terms of  
20 beryllium, the silica and the sarcoid as the top  
21 priority.

22 And I think we could also just have a

1 -- and my preference would be for all of us not  
2 to get too bogged down on one if it's very  
3 complicated and we can't -- you know what I mean?  
4 We could prioritize this one set, you know, just  
5 for everyone. The first one we can start with is  
6 the very complicated one so we can get a feel for  
7 the cases.

8           And then we would at least have -- you  
9 know, we could, just by email, just let people  
10 know if they, you know, about when we're through,  
11 I think we'll have an idea about the feasibility.  
12 You know, if we were all just taking much longer  
13 than we anticipated. Does that seem like a plan?

14           MEMBER WELCH: Sure.

15           CHAIR REDLICH: Okay. So I think just  
16 to review the plan would be to, initially, I  
17 would send out a revised template form to use.  
18 And we would then assign people cases. And if  
19 people have suggestions on the form or  
20 suggestions after they use it once or twice, then  
21 I could quickly revise it so that it's most user-  
22 friendly and have the information we wanted. And



1 then, ideally -- then if, hopefully, you know,  
2 people, that the ones that they do, I agree, we  
3 don't want to present this to everybody without  
4 us reviewing.

5 In terms of sharing the forms between  
6 each other, we could have a system to do that.  
7 Ideally, I agree, I would be nice to have a call  
8 where we could then review what we come up with.  
9 But in terms of between now and the meeting,  
10 that's not really feasible, correct, in terms of  
11 the timing?

12 MEMBER WELCH: Yes. I don't think it  
13 is.

14 CHAIR REDLICH: I mean, do we have the  
15 time to set up a -- in terms of being a -- so  
16 that's just not an option?

17 MEMBER MARKOWITZ: This is Steven. I  
18 think you could report on impressions from the  
19 review. You know, or provisional observations,  
20 something like that, without pretending it's more  
21 systematic.

22 CHAIR REDLICH: Okay. I mean, I would

1 be happy to compile what -- just to sort of move  
2 things along and to make the best use of our time  
3 in October. You know, I think we could compile  
4 the forms that I had gotten into some summary  
5 that attempted at a preliminary summary, to use  
6 these as a template or a starting point.

7 MEMBER DOMINA: Hey, this is Kirk.

8 CHAIR REDLICH: Yes, and no summary at  
9 all.

10 MEMBER DOMINA: Hey, this is Kirk. I  
11 was thinking of one thing you need to add to this  
12 form would be your years that they were working  
13 at a DOE site.

14 Because the reason is I want to see if  
15 those bulletins come in to play if they're saying  
16 after 1996 that you weren't exposed to anything.  
17 Which I know is not true for out here.  
18 Especially when you get into beryllium, our  
19 people weren't supposed to be exposed ever. So  
20 how did that come to pass when a lot of these  
21 people have hired in at the year 2000?

22 So I think we need to put, you know,

1 when they started at the DOE site. And if it's  
2 one or more, which some people have.

3 MEMBER WELCH: That's a good point.

4 CHAIR REDLICH: Okay. So we need  
5 their years of employment along with this  
6 criteria that we'll use.

7 MEMBER DOMINA: Right. Because when  
8 they're talking about inadequate exposure, you  
9 have somebody that's doing it from 3,000 miles  
10 away that has no idea if there was monitoring or  
11 not. Which most of the time, there wasn't.

12 And, you know, I want to see if  
13 they're using the lack of exposure data against  
14 the individual. And then also comes into play, I  
15 don't know if we need to add this, that, you  
16 know, we've had people from over five  
17 uninterpretables in a row, some of them over ten.

18 (Telephonic interference.)

19 MEMBER DOMINA: I know, but it's what  
20 happens, you know.

21 MEMBER WELCH: Yes.

22 MEMBER DOMINA: But anyway, it's just

1 my --

2 CHAIR REDLICH: Actually, one of the  
3 cases I reviewed was in that scenario.

4 MEMBER DOMINA: Yes.

5 CHAIR REDLICH: Okay. Those are good  
6 suggestions.

7 I also feel like for a reason to deny,  
8 there's the reason given and then whether we can  
9 put that as a reasonable conclusion. We may not  
10 have the answer to that. So I don't know if  
11 there's a way to kind of incorporate this on the  
12 form. And the conclusion was there was no  
13 exposure and then I, personally, it would be  
14 helpful to know whether we think that is a  
15 reasonable conclusion.

16 MEMBER WELCH: Yes. And I think --

17 CHAIR REDLICH: So I will, again --

18 MEMBER WELCH: It's just really one  
19 other thing I think would be useful is for us to  
20 decide ones we think everyone should look at and  
21 discuss. And maybe you can figure that out from  
22 the form itself. But, you know, we'll probably

1 find ones that are --

2 CHAIR REDLICH: Sure, yes.

3 MEMBER WELCH: -- really interesting  
4 and useful.

5 CHAIR REDLICH: That's right. Or,  
6 potentially, an example could be, so let's say,  
7 from the point that was made earlier, it does  
8 seem that we're going to have more issues with  
9 where there's a question about the medical piece.  
10 Where it may well be -- and maybe that doesn't.  
11 But I think that's a good suggestion on all  
12 accounts.

13 And, obviously, those who are more  
14 familiar with the exposure side will be able -- I  
15 will get a feel for that on the medical side.  
16 But I guess the other thing is we may -- well,  
17 yes, I guess by Friday which ones because I can  
18 easily imagine a scenario where, Kirk, I would  
19 like your opinion on -- well, somebody else on  
20 the exposure side, their case. But I think if  
21 we'd flag, maybe we all put in a place also for  
22 just these are the reasons to flag it. Those are

1 the suggestions. Okay.

2 MEMBER VLIEGER: Dr. Redlich, this is  
3 Faye. I have a request when you're reviewing the  
4 files. The information that's often sent to the  
5 CMCs is not what would be medically relevant to  
6 making a decision. So I would just ask that you  
7 look at what's actually sent to the CMC, that it  
8 was actually the correct information to make an  
9 informed opinion. What I see when I request the  
10 records for a file is that the referral to the  
11 CMC has incomplete information to make an  
12 informed opinion.

13 CHAIR REDLICH: Okay. I submit there  
14 could be two possibilities. One is that the  
15 information exists but it won't be sent. And the  
16 other is that the testing or whatever wasn't done  
17 or it could be either of those possibilities.

18 MEMBER VLIEGER: There's a third  
19 issue. The CMC referral couches questions to  
20 their doctor to answer. And many times, those  
21 questions are inappropriate or inadequate. So  
22 that's part of the CMC referral.

1                   And so, they don't send all the  
2 records that could be pertinent. And the  
3 questions they ask of the CMC physician, and  
4 that's what they're supposed to answer, they're  
5 not supposed to go outside of what's requested of  
6 them, is they're not the appropriate questions  
7 for what's going on.

8                   CHAIR REDLICH: Got it.

9                   MEMBER VLIEGER: When you look at  
10 that, it's the same idea as what we saw with the  
11 IH referrals is they narrow it down to only these  
12 possible answers and all of those answers are  
13 going to be no.

14                  CHAIR REDLICH: Okay. I guess --

15                  MEMBER VLIEGER: Just look for that  
16 when you look at the file.

17                  CHAIR REDLICH: You know, that's a  
18 good one and I'm just thinking if we're editing  
19 the template that I had. Because I think the  
20 referral, it's going to need to include the  
21 reason or question for the referral and  
22 everything. Okay. Do we know how many, what

1 percentage of these are referred?

2 MEMBER WELCH: We don't know that.

3 CHAIR REDLICH: Okay.

4 MEMBER WELCH: I mean, in Part B, it  
5 might be a little bit easier. Because when I've  
6 done these things, under Part E, people can be  
7 referred to a medical consult for an impairment  
8 rating. And so, you don't know if it's a  
9 causation opinion or an impairment rating. We  
10 could probably see how many don't get any  
11 referral at all.

12 CHAIR REDLICH: Okay. That's why I  
13 thought percentage. Then for that, that doesn't  
14 -- you know the overall percentage of referrals  
15 doesn't reflect that, you know, just what we have  
16 or to physically do those. Okay. That's a good  
17 suggestion. I will add that for the form.

18 My guess is after we use it on a case  
19 or two, we'll realize that there are some other  
20 pieces of information, the same reason. And so,  
21 those who are more familiar with the process,  
22 don't hesitate to let me know.



1                   Okay. We were supposed to take a  
2 break. Carrie, what time are we supposed to take  
3 a break?

4                   MS. RHOADS: Anytime. It's 2:30. If  
5 you want to take a break, you can take one now,  
6 if it's a good time.

7                   CHAIR REDLICH: What do people think?

8                   MEMBER WELCH: Well, I'm going to take  
9 off at 3:00, so --

10                  CHAIR REDLICH: Oh, okay. So if  
11 you're taking off at 3:00, then maybe we should  
12 just forge ahead. We've actually, I think,  
13 covered quite a bit on our agenda. Let me just  
14 get it out again.

15                  So we've actually discussed reviewing  
16 the cases. I had asked were there any review of  
17 all the other materials that were on the CD. I  
18 don't know how much people looked at to date.

19                  Is there any other -- essentially, to  
20 me, that these cases are the priority, but other  
21 materials we should be reviewing that we do not  
22 have? Does anyone have any thoughts on that? I

1 think these cases will keep us busy, but I just  
2 wanted to raise that.

3 Okay. But I think we discussed the  
4 additional data analysis that, John, you --

5 MEMBER DEMENT: Yes. This is John.  
6 I'll try to get those out in the next few days.

7 CHAIR REDLICH: I appreciate it. You  
8 know what always happens the day that you look at  
9 it, when we see and whatever analysis, then  
10 there's more questions you can have. So I will  
11 try and refrain myself. If I ask any others,  
12 it's usually more curiosity, but that would be  
13 great.

14 Okay. And I just had any other  
15 information that we would like to have before our  
16 next meeting?

17 MEMBER MARKOWITZ: This is Steven.  
18 So, you know, you may recall at the April  
19 meeting, I can't remember who presented from the  
20 DOL in this Part B, one of B's issues. But there  
21 were a number of issues they identified that they  
22 wanted our help with. And some of these, we're

1 going to get some insight into by reviewing the  
2 claims, but others are separate issues.

3 So, we've got to keep those on our  
4 radar. And, you know, I don't think there's the  
5 time or clarity to deal with those issues on this  
6 call. But we just need to keep them in our  
7 minds.

8 CHAIR REDLICH: Thank you. I didn't  
9 resend -- we had sort of summarized those issues.  
10 And I agree, because some of them had to do with,  
11 like, sensitivity and specificity of the test.  
12 You know, Laura, you know very well out of  
13 anybody.

14 MEMBER WELCH: You know what? As a  
15 reminder, I think it might be helpful if we have  
16 a summary of those issues and questions that was  
17 in that information. And if we send it to  
18 everyone again. Because I think, also, just  
19 reviewing them, while going through cases, I  
20 think will be helpful.

21 CHAIR REDLICH: I had actually done  
22 that myself to refresh my memory, so thank you.

1 Because we do want to keep our eye on the task.

2 And hopefully, so -- and I think the  
3 main piece of information that we've identified  
4 that we haven't necessarily gotten our hands on  
5 to. I'm not sure we will which is the exact, you  
6 know, sort of the more specific training for the  
7 contract physicians or providers. I think we  
8 made the request, so I'm not sure there's  
9 anything else to do on that.

10 MEMBER WELCH: Except that we've been  
11 told that DOL can't give us that information. So  
12 I don't know when we're going to visit it.  
13 Steven will provide us and then so that we'll  
14 visit it at the meeting or some way or another.

15 I looked through the Statement of  
16 Work. And in terms of, you know, knowledge or  
17 qualifications, it just says that the doctor has  
18 to be in the right specialty field. And then  
19 they put a note in the letter that they're  
20 qualified to review the case and that's pretty  
21 much it.

22 I mean, there's no -- so it's up to

1 the claims examiners to decide what qualification  
2 that's necessary. You know, whether they're  
3 talking about if this is a pulmonary for these  
4 cases, for example, and so --

5 MEMBER VLIEGER: This is Faye. And I  
6 just want to interject that I find their vetting  
7 process to be inadequate.

8 And at a recent hearing in the spring,  
9 I vetted the doctor myself for a final  
10 adjudication branch hearing for a claimant and  
11 found that the doctor had no less than 15  
12 malpractice citations. And so, I was very  
13 disappointed. And when I contacted the  
14 Department of Labor, they had no idea that they  
15 were using a neurologist that had been cited. He  
16 lost a court case and he'd been cited in 15 other  
17 states.

18 So I find their vetting process  
19 entirely inadequate. And the QTC contractor  
20 doesn't seem to be required to vet them properly.

21 CHAIR REDLICH: Thank you. Okay. And  
22 then, I guess, I had looked at that document. I

1 didn't find a lot of specificity, if it was the  
2 right document, in terms of, you know, whether  
3 how you would actually interpret the guidelines  
4 for this would be an accepted case or not.

5 MEMBER VLIEGER: So just so you know,  
6 the doctor has to qualify. The claims examiner  
7 presents the questions and the doctor has to  
8 answer the questions for the claims examiner in a  
9 way that a non-medical person could understand.  
10 That's pretty much what I got out of it.

11 CHAIR REDLICH: For the World Trade  
12 Center, there was actually, okay, if you're going  
13 to diagnose asthma, this is sort of what you  
14 need, if you're going to -- I mean, it was laid  
15 out for each condition that was a potential  
16 condition. And it doesn't seem like there's that  
17 same degree of detail for, you know, specific  
18 conditions.

19 MEMBER WELCH: Well, yes. It's true.  
20 But, you know, I think just having looked at  
21 files there, it depends on what you're talking  
22 about. And as we do this, there is very specific

1 criteria that this Statement of Work is for the  
2 overall program altogether.

3 And then I think there's probably less  
4 focus on the specific diagnosis, if the person's  
5 medical records show that the individual has that  
6 diagnosis. But you have to learn that by looking  
7 at the files. The DOL does not say a diagnosis  
8 of asthma must have this, this, this, and this,  
9 and this.

10 CHAIR REDLICH: But we look at the  
11 training manual for the World Trade Center was  
12 sort of, more or less, you know, generically laid  
13 out. Not like the specific questions for this  
14 person, but, in general, this is what you need  
15 for this diagnosis.

16 MEMBER WELCH: Yes. We don't know if  
17 the contractor gives that to their doctors, too.  
18 The DOL doesn't seem to specify them or they  
19 would've told us that.

20 CHAIR REDLICH: Okay. Very good. All  
21 right. So I think we have what we are going to  
22 get, at least for now as far as that question.

1           Okay. So I think the next item we  
2 have on our list were goals before our October  
3 meeting. So I think we sort of got a plan in  
4 terms of the additional data now and review of  
5 we'll find cases.

6           As far as the number of cases that  
7 people feel that they can review, I think,  
8 obviously, it'll become more apparent after doing  
9 some. So we can assign everybody 20 and see what  
10 people get to. Is everyone okay with that?

11           MEMBER WELCH: Yes.

12           MEMBER MARKOWITZ: Yes. I'm good.

13           MEMBER DEMENT: Okay.

14           CHAIR REDLICH: Okay. And then we'll  
15 make a note of -- and that'll also include the  
16 ones we got from our discussion. And I will also  
17 on the ones that we get through, the people from  
18 the, you know, one page or so. Then I could try  
19 and summarize what we have. And in addition into  
20 something while we review, you know, the CBD  
21 claims and try to then summarize, you know, if  
22 they were accepted, denied, the reasons and the



1 like.

2 Okay? Any other thoughts of what we  
3 should be accomplishing before our next meeting?

4 MEMBER MARKOWITZ: So yes, this is  
5 Steven. So I'm looking at the issues that DOL  
6 brought us in April around these, around Part B  
7 lung diseases.

8 Most of them actually are really to  
9 the scientific medical questions that don't  
10 depend upon review of claims. They really need  
11 expert medical consultant advice.

12 So maybe, by the meeting, we can  
13 develop a plan for the future of how to construct  
14 these here, get some answers. Whether, for  
15 instance, forming a subgroup of the Board that's  
16 going to take on these issues. Whether one or  
17 two people from the Board could work with some  
18 outside experts to develop answers to these  
19 questions.

20 Whatever the approach is, I just think  
21 we should float some ideas before and at the  
22 October meeting. And if you really look at the

1 issues that they raise, you'll see what I'm  
2 talking about.

3 CHAIR REDLICH: Yes. No, I do. I had  
4 actually -- and this was after the last meeting.  
5 I could send around what I had done.

6 I had gone through these questions and  
7 some of them it was I felt like, well, there's an  
8 accepted medical answer for this that really want  
9 to explain but doesn't need much more work. And  
10 then some of them were more involved.

11 Because you're right, a lot of them  
12 were. And some of them, I would say, let's say  
13 the ATF has a recent document on CBD. Where one  
14 could actually just cite that as, well, this is  
15 what is sort of the answer. And then, as you  
16 said, I think some then were more involved. But,  
17 like, as a starter we could start with that, and  
18 in terms of which ones would then be more  
19 involved.

20 MEMBER MARKOWITZ: Right. Right.  
21 Yes.

22 CHAIR REDLICH: I mean, could I send

1 -- I don't want to -- just in terms of  
2 communication, I could send that to Carrie and  
3 she could send that to everybody to just take an  
4 initial look at to think about.

5 MEMBER MARKOWITZ: Yes. This is  
6 Steven. I think that would be a good idea just  
7 to, you know, take off the discussion. Again, I  
8 don't know that there'll be time or we'll be at  
9 the point of, you know, we'll be discussing  
10 specific answers to the questions in October.  
11 But at least if a plan for addressing the issues  
12 is presented, that would be good.

13 CHAIR REDLICH: Exactly. And then a  
14 sense of how much more work would be involved in  
15 coming up with the answer.

16 MEMBER MARKOWITZ: Right.

17 CHAIR REDLICH: Okay. I think that's  
18 a good suggestion. Okay. I'm just making a note  
19 here, original questions. Any other items,  
20 questions, suggestions? Laurie, do you have  
21 anything?

22 MEMBER WELCH: No. I don't have

1 anything else.

2 CHAIR REDLICH: Okay. I think we've  
3 accomplished quite a bit. We don't have to use  
4 our full time, do we?

5 MEMBER WELCH: Great question.

6 CHAIR REDLICH: I don't want to --

7 MEMBER MARKOWITZ: I know that --

8 CHAIR REDLICH: No, if there's people  
9 -- do we know who's listening in? And I guess  
10 the people who are listening in who have  
11 comments, suggestions, if we can get those; is  
12 that correct?

13 MS. RHOADS: Anybody is free to send  
14 in written comments. Yes, that's fine.

15 CHAIR REDLICH: Yes. I mean, I guess  
16 assuming someone took the time to listen to our  
17 conversation and has lots of opinions, then it  
18 would be good to get them. So anybody who is on  
19 the line, we would appreciate your input and  
20 suggestions.

21 MS. RHOADS: And in the Federal  
22 Register notice about this, there is an email

1 address to send comments to or, you know, you can  
2 also use regular mail. There's an address for  
3 that as well.

4 MEMBER MARKOWITZ: Yes. This is  
5 Steven. Let me just make a comment.

6 You know, we have had in the past from  
7 Department of Labor on this which is, you know,  
8 specific. We have the issues presented by DOL  
9 which are mostly scientific and medical. We've  
10 heard some concerns through the public commenters  
11 and through Board members about the issues in the  
12 past here.

13 And the only way we can know whether  
14 we're addressing kind of the full spectrum of  
15 concerns is if we get feedback from the public  
16 and also eventually from DOL about their issues.  
17 So I would encourage some feedback as to whether  
18 we're pursuing the issues that people are  
19 concerned about.

20 MEMBER DOMINA: Hey, this is Kirk.  
21 I've got a question for Dr. Markowitz.

22 In our April meeting, you had

1 mentioned something about, if I remember  
2 correctly, about a couple pulmonologists behind  
3 Oak Ridge about trying to see if you could get  
4 them to the meeting to see what the issues are  
5 that they have. Because there was only, like, a  
6 couple in the area that were doing this.

7 MEMBER MARKOWITZ: Right. Right.  
8 Yes, I do remember that.

9 MEMBER DOMINA: Because I would like  
10 to see -- you know, because some of these doctors  
11 send in well-rationalized opinions and then  
12 they're getting pushback.

13 MEMBER MARKOWITZ: Right.

14 MEMBER DOMINA: I guess, to me, you  
15 know, you're hearing it from the horse's mouth.  
16 You know, because then if they're sending it to  
17 the CMC or what are they sending to the CMC?

18 MEMBER MARKOWITZ: Right. So yes. So  
19 Kirk, this is Steven. Yes. Through the public  
20 comment mechanism, they can participate. So try  
21 to get the word out.

22 CHAIR REDLICH: Well, I mean, I agree

1 with the concern just sort of generally raised  
2 that we have the perceived different person,  
3 different people. But I still feel like, you  
4 know, are there other groups involved where it  
5 would be useful to get their input? And, you  
6 know, is there anything more active we should be  
7 doing to do that?

8 MEMBER WELCH: Well, I think, you  
9 know, this is really -- I think there are many  
10 people who have been pushing for a long time to  
11 get this advisory committee established and  
12 people who represent the claimant community. So  
13 I think we've cast a pretty broad net or the  
14 Department of Labor did, in, you know, announcing  
15 to the community and setting it up and talking  
16 about it at public hearings. So, you know, it's  
17 more just making sure people feel it's worth  
18 their while to send in a comment and that we  
19 actually read them and things like that.

20 CHAIR REDLICH: I asked informally.  
21 The sort of community of occupational and  
22 environmental lung medical specialists is not

1 huge. That, you know, with the National Jewish  
2 or some of the others and Laurie, obviously, has  
3 a lot of expertise.

4 I sort of, over the last several  
5 months, when I've been at any meetings and have  
6 just asked for their input in terms of, you know,  
7 from their perspective, what some of the problems  
8 are. And I think I emailed one summary and, you  
9 know, any suggestions they had. But that's  
10 obviously an informal, you know, not very  
11 scientific approach.

12 And it's also I do feel like that the  
13 contract physicians play a very important role,  
14 and that does seem to be a group that we're not  
15 hearing from. So I don't know they're just new  
16 to accept it, if there's any input that would be  
17 useful.

18 MEMBER TURNER: And this is James.

19 MEMBER MARKOWITZ: And we are meeting  
20 at the DOE community which are the largest number  
21 of claimants, Oak Ridge. So that was my last  
22 meeting. So we're certainly making ourselves



1 available for anybody which is good.

2 MEMBER TURNER: This is James. Yes,  
3 I'd like to say that on May the 26th of this  
4 year, I attended Sarcoidosis Research as a case  
5 program and that has to do with health with Dr.  
6 Lisa Maier, Dr. Nabeel H-A-M-Z-E-H. Are you all  
7 familiar with those doctors?

8 MEMBER WELCH: With Dr. Maier,  
9 definitely.

10 MEMBER TURNER: Okay. Well, they have  
11 the results of those meetings or programs, it's  
12 on YouTube. So if you can look that up, would  
13 you all interested?

14 CHAIR REDLICH: Where was it from?  
15 Where was it held?

16 MEMBER TURNER: At National Jewish  
17 Health Center.

18 CHAIR REDLICH: Okay. And the topic  
19 was?

20 MEMBER TURNER: Sarcoidosis research  
21 educational program.

22 CHAIR REDLICH: Okay. If I can't find

1 it, I will call you. Thanks.

2 MEMBER TURNER: Okay.

3 CHAIR REDLICH: Okay. Do we have an  
4 agenda yet for the October meeting?

5 MEMBER MARKOWITZ: No. No, I was  
6 waiting for all these second round of calls to be  
7 done. So within the next week after that, I'll  
8 draft something.

9 CHAIR REDLICH: Okay. Then from your  
10 perspective, Steve, is there anything else that  
11 you would like us to be prepared for by that  
12 meeting?

13 MEMBER MARKOWITZ: I don't know. I  
14 have to give it some thought. If the  
15 Subcommittee had come up with any  
16 recommendations, they would be good to present.  
17 If there are any particular plans or request,  
18 plans to move forward or requests for more data,  
19 that's appropriate. But how we're going to  
20 structure, you know, work to date, I just have to  
21 figure out.

22 CHAIR REDLICH: Okay. Very good.

1 Okay. Anybody else? Anything that you want to  
2 go over any stuff? And I was just going to say  
3 if anybody listening who has information they  
4 would like to share with us, to please submit it.

5 Okay. I think we are ready to  
6 adjourn. All right. Okay. Thank you all. I  
7 appreciate everybody's efforts. And I think  
8 we'll all have a sense of these cases after the  
9 review. Okay.

10 MEMBER MARKOWITZ: Thank you.

11 CHAIR REDLICH: So I will communicate  
12 through Carrie, the other Carrie, in terms of  
13 I'll send it to her and she'll send it to  
14 everybody. I think it's a good form of  
15 communication. Okay. Thank you.

16 (Whereupon, the above-entitled matter  
17 went off the record at 2:50 p.m.)  
18  
19  
20  
21  
22

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This is to certify that the foregoing transcript


In the matter of: Evidentiary Requirements for  
Part B Lung Conditions (Area 3)

Before: Toxic Substances and Worker Health Adv. Bd.

Date: 09-21-16

Place: teleconference

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.

  
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Court Reporter

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