

**U.S. Department of Labor**

Office of Workers' Compensation Programs  
Washington, DC 20210



**JAN 09 2019**

The Honorable Michael R. Pence  
President of the United States Senate  
Washington, DC 20510

Dear Mr. President:

Enclosed is the Secretary of Labor's response to the Office of the Ombudsman's 2016 Annual Report for the Energy Employees Occupational Illness Compensation Program. Pursuant to 42 U.S.C. § 7385s-15(e)(2), the Ombudsman's report provides Congress with the number and types of complaints, grievances, and requests for assistance received by his office during each calendar year, and an assessment of the most common difficulties encountered by claimants and potential claimants under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

The administration of EEOICPA involves the coordinated efforts of four federal agencies: the Department of Labor (DOL), the Department of Energy, the Department of Health and Human Services, and the Department of Justice. DOL, through its Office of Workers' Compensation Programs, Division of Energy Employees Occupational Illness Compensation, has primary responsibility for administering the EEOICPA, including adjudicating claims for compensation and paying benefits for illnesses covered under both Part B and Part E of the statute.

The Secretary is required to provide a response to Congress regarding the Annual Report that includes a statement of whether he agrees or disagrees with the specific issues raised by the Ombudsman, and if he agrees, the response is to include a description of the corrective actions that will be taken. If he disagrees, he is required to respond with reasons for the non-concurrence. The enclosed contains DOL's response to the seven areas of concern highlighted in the Ombudsman's 2016 Annual Report.

Sincerely,

A handwritten signature in black ink, appearing to read "Julia K. Hearthway".

Julia K. Hearthway  
Director  
Office of Workers' Compensation Programs

Enclosure

U.S. Department of Labor

Office of Workers' Compensation Programs  
Washington, DC 20210



JAN 09 2019

The Honorable Nancy Pelosi  
Speaker of the U.S. House of Representatives  
Washington, DC 20515

Dear Speaker:

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Julia K. Hearthway  
Director  
Office of Workers' Compensation Programs

Enclosure

## RESPONSE TO THE OFFICE OF THE OMBUDSMAN'S 2016 ANNUAL REPORT

### 1 – Awareness of the Program

**The Ombudsman states, “the Division of Energy Employees Occupational Illness Compensation (DEEOIC) and the other agencies involved in the administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) continue to make efforts to increase awareness of this program. Yet, in spite of these efforts, there are potential claimants who remain unaware of this program.”**

**The Ombudsman mentions the following concerns: 1) claimants need advance notice of DEEOIC’s outreach events; however, press releases are not picked up by the local media and are sometimes only available on the day of an outreach event; 2) DEEOIC’s outreach efforts have focused on areas around covered facilities that employed large numbers of employees while other areas of the country are being overlooked; 3) the employee lists/rosters compiled by the Department of Energy/Former Worker Program (DOE/FWP) contain more names than the mailing lists developed by DEEOIC and, if used, could help increase awareness of the program; and 4) at outreach events the Resource Centers (RCs) focus primarily on their role in assisting with the filing of claims but do not discuss the other assistance they provide.**

**Response:** The Office of Workers’ Compensation Programs (OWCP) understands the importance of outreach to the nuclear weapons community and agrees OWCP must use a variety of outreach strategies to reach as many people as possible.

OWCP prepares press releases weeks in advance of outreach events (e.g., town hall meetings, traveling resource centers, and medical benefits meetings) and works through DOL’s Office of Public Affairs for their release. OWCP also utilizes its website, social media, email subscription services, and mass mailings to advertise outreach events. However, it is sometimes a challenge to gain local media interest in the areas close to DOE facilities where outreach events take place. To that end, the OWCP also works closely with members of the Joint Outreach Task Group (JOTG)<sup>1</sup> to publicize EEOICPA events. JOTG members disseminate information about outreach events through mailings, flyers, and newsletters.

With regard to reaching employees or former employees of smaller facilities, OWCP recognizes the challenges surrounding this issue and between 2016 and 2018 conducted outreach events near the following smaller facilities: Ore Buying Station at Grants, New Mexico; Pinellas Plant in Clearwater, Florida; Mallinckrodt Chemical Company in St. Louis, Missouri; Climax Uranium Mill and Grand Junction Facilities in Grand Junction, Colorado; Ore Buying Station in Moab, Utah; The Mill at Moab, Utah; Wah Chang in Albany, Oregon; Ames Laboratory in Ames, Iowa;

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<sup>1</sup> The mission of the JOTG is to improve communication among members and coordinate outreach efforts, thus allowing JOTG members to distribute information to a larger number of potential and existing EEOICPA claimants. JOTG members include the U.S. Department of Labor, U.S. Department of Energy, U.S. Department of Health and Human Services, the Office of the Ombudsman for the EEOICPA, and the Office of the Ombudsman for the National Institute for Occupational Safety and Health.

Reduction Pilot Plant in Huntington, West Virginia; Area IV of the Santa Susana Field Laboratory in California; Allied Chemical Corporation Plant in Metropolis, Illinois; Ore Buying Station at Shiprock, New Mexico; and the Ore Buying Station at Monticello, Utah. Given that many former employees or their survivors no longer live close to these facilities, OWCP also reached out in other ways. During fiscal year 2017, advertisements regarding the EEOICPA were placed in the following newspapers and newsletters: Joliet Herald (Illinois), Alaska Dispatch News (Alaska), The Village Daily Sun (Florida), Del Webb Woodbridge Newsletter (California), News Watchman (Ohio), Morning Sun (Kansas), Dallas Observer (Texas), Syracuse Post Standard and Syracuse New Times (New York), Sun City Tipster (Arizona), and the Carillon 55+ Newsletter (Illinois). The advertisements mentioned the names of several smaller facilities in the region and encouraged former employees to file claims.

OWCP's RCs in 11 locations nationwide routinely place program brochures at senior centers, residential care facilities, Departments on Aging, libraries, etc. They also distribute program information to union representatives during monthly meetings and in mailings to members. The RCs have coordinated with covered facilities to reach employees, targeting a variety of audiences including painters, roofers, carpenters, electricians, boilermakers, and other trades, both locally and within a wide geographic area.

The Ombudsman again in the 2016 report suggests that DEEOIC could use rosters compiled by Department of Energy/Former Worker Program (DOE/FWP) to send mailings about outreach events. As OWCP has previously indicated, OWCP conducts mass mailings in concert with outreach events, but unfortunately cannot use the mailing lists/rosters compiled by DOE/FWP, due to privacy concerns. With that said, however, DOE/FWP has worked with OWCP and sent information regarding JOTG events to their lists/rosters.

Concerning the Ombudsman's issue that the RCs only focused on their role in assisting with the filing of claims at "events sponsored by local groups and organizations," without context, OWCP cannot provide meaningful comment. There is no information provided about the events referenced or the sponsor's expectation of the RC at the event. In general, the RCs have various roles and limitations depending on the type of event. For example, if the event is sponsored by an organization that profits from DEEOIC medical beneficiaries, it is inappropriate for the RC to do anything more than assist with claims.

## **2 – Claimants' Knowledge of the Tools and Assistance Available to Them and Help Utilizing These Tools**

**The Ombudsman states, "A host of tools have been developed to assist claimants with the EEOICPA claims process. In addition, DEEOIC and the other agencies involved in the administration of this program will provide some assistance to claimants. However, there are still complaints about assistance for claimants."**

**The Ombudsman specifically mentions the following concerns: 1) claimants are not aware of the tools and resources available to assist them with their claims; 2) while DEEOIC has increased the amount of literature available for distribution, most information is only**

**available online; 3) even though a tool or resource is available online or brought to a claimant's attention, many claimants do not appreciate the benefits of these tools/resources and/or know how to use them.**

**Response:** OWCP agrees there may be claimants who do not have access to information via the Internet and others who do not understand or are not aware of the tools and assistance available to them. This is a recurring concern in the Ombudsman reports each year; however, the Ombudsman has not quantified this complaint over the years. While OWCP has provided claimants with significant amounts of additional information about the tools available and continues to improve its web site and other forms of communication, it is unclear from the Ombudsman's report whether OWCP has improved and whether these complaints have diminished. Nor does the assessment provide any insight as to areas of communication that may have been overlooked.

For claimants who do not have significant access to the Internet, the OWCP invests a great deal of time in communicating with, supporting, and working with claimants on a one-on-one basis, particularly through the RCs. To assist claimants who do not have access to the Internet, OWCP provides printed materials, hard copy, and one-on-one attention. Each claimant who files a claim through the RCs receives printed copies of the following brochures: *How is My EEOICPA Claim Processed?*; *Eligibility for Compensation and Benefits under the EEOICPA*; *Using the Services of an Authorized Representative*; *Information about the Energy Document Portal (EDP)*; *What Happens after an EEOICPA Recommended Decision?*; *Medical Benefits Brochure*; *How Do I Qualify for an Impairment Award under Part E of the EEOICPA?*; and *Wage Loss Benefits under Part E of the EEOICPA*. The RC also provides each new claimant with a printed copy of the updated "Frequently Asked Questions." RCs provide printed copies of brochures and website information in their lobbies and bring copies of materials to the outreach events they attend. In addition, RC staff are available to assist claimants with the use of website tools such as the EDP, Claimant Status Page, the DOE Facility List Database, OWCP's Medical Provider Search, Site Exposure Matrices (SEM), and the BTComp Subcontractor Database.

While there may be claimants who do not understand or have access to the Internet, OWCP believes that the prevalence of the Internet in today's society has given the majority of claimants and their representatives opportunity to adapt to the digital age. Today's online work environment demands that government agencies utilize the latest technologies, and OWCP has done so. One example is the EDP which allows claimants to submit documents electronically. DEEOIC reports that prior to 2015, the Division received approximately 140,000 documents per year through its physical mail room. Since 2015, when the new EDP was first implemented, DEEOIC has seen a steady increase in the number of documents submitted online (35,904 in 2015, 72,358 in 2016, and 81,544 in 2017) while simultaneously seeing the number of documents received through the mail room decrease (97,275 in 2015, 70,372 in 2016, and 46,274 in 2017). This demonstrates a substantial increase in claimants' use of the web-based EDP over those three years, while also having a reduction in physical mail of more than 52% compared to pre-EDP levels. OWCP believes its investment in online technology is critical and of benefit to claimants, and continually looks for ways to improve online resources and claimants' access to those resources.

OWCP is currently involved in a pilot program to add process-driven, user-friendly features to its website that will direct claimants to the section(s) of the website they need to access. These

sections might include initial filing of forms grouped with brochures on how to file a claim, or medical bill submission links grouped with medical brochures and information regarding medical benefits under the program. By grouping parts of the website together, based on work flow process, OWCP will be providing a new tool that will help its stakeholders better navigate the policies and procedures related to the EEOICPA. In 2017-2018, OWCP also led the JOTG in the development and implementation of a new training workshop for authorized representatives, which OWCP is extending to each of its regions. The topic of “tools and resources” is an important component of this training.

### **3 - Statutory Complaints**

**The Ombudsman’s summary states, “There are complaints that directly question the statute as it is currently written. Changes to the statute will have to be initiated by Congress. However, there are some questions about the statute that involve the administration of the program.”**

**The Ombudsman mentions the following concerns: 1) there is little guidance to assist claimants when they endeavor to challenge a facility’s designation (or lack of designation) as a covered facility; 2) claimants and authorized representatives do not know who to contact when they have questions concerning the attorney fee schedule; and 3) claimants have asked if DEEOIC can develop a procedure whereby claimants can file a claim and thus establish a date of filing, yet postpone the processing of that claim if they are currently facing other life challenges.**

**Response:** The issue regarding the rationale behind the enactment of various statutory eligibility provisions of EEOICPA is not one with which OWCP can appropriately agree or disagree. The statute sets out the criteria for facilities, employees, and the types of illnesses that are covered under each Part of the EEOICPA. The statute also sets out the criteria under Part B and Part E for attorney fees. Limitations enacted as part of the statute itself cannot be altered by OWCP, and the agency’s role is to faithfully execute the statute and accurately apply the law as written.

Chapter 13 of the Federal EEOICPA Procedure Manual (PM) clearly outlines OWCP’s guidance for establishing covered employment, beginning with the statutory definitions that serve as the basis for determining covered employment. Chapter 13 covers the specific steps that claimants can take if they believe non-covered employment should be covered, and explains that updates are periodically made to facility descriptions as new information becomes available. If stakeholders in general have additional information regarding covered facilities, they can forward that information to DEEOIC’s Policy Branch. The Policy Branch evaluates requests for changes to the covered facility listing and/or time frame changes related to DOE facilities. OWCP refers requests for new Atomic Weapons Employer (AWE) designations to DOE for review. This has occurred in the past, sometimes resulting in a change to the facility descriptions.

The guidance regarding attorney fees originates in the EEOICPA statute and regulations. OWCP provides an explanation of attorney fees in its initial letter to new authorized representatives, in Chapter 12(8) of the Federal (EEOICPA) Procedure Manual entitled *Representative Fees*, and in

a brochure entitled *Information for Claimants Regarding Representative Services*, which is made available on the website, at the RCs, and at outreach events. This issue is also addressed in the new series of authorized representative workshops that OWCP initiated in December 2017.

With regard to preserving the date of filing, as described in the Federal EEOICPA Procedure Manual Chapter 7(9), a claimant is able to withdraw his or her claim for benefits for any claimed condition(s) prior to the issuance of a final decision for the requested benefit(s). Withdrawal of a claim does not change the record of initial date of filing. OWCP honors all requests to withdraw a claim for benefits that are submitted in writing, signed by either the claimant or his or her authorized representative. Thus, a claimant who wishes to postpone action on a claim can do so by withdrawing his or her claim. Claimants may also request a reopening of their claims at any time. OWCP wants to ensure that claims are processed and adjudicated as quickly as possible, and therefore manages the timeliness of claims from the date of initial filing to recommended and final decisions. If claimants were able to file to preserve a filing date, without receiving a recommended or final decision, it would be more difficult to be accountable for adjudication timeliness.

#### **4 – Development of Evidence**

**The Ombudsman’s summary states, “Some claimants find it very difficult to independently develop the evidence needed to support their claim for benefits.”**

**The Ombudsman mentions the following concerns: 1) claimants find it frustrating when after taking time to search for evidence, they later discover that DEEOIC has conducted its own search for the same evidence; they have asked whether DEEOIC could explain the types of searches it conducts early in the claims process (to avoid claimants making the same search for evidence); 2) claimants complain that even when DEEOIC has provided guidance regarding the need for additional evidence, it is often unclear what DEEOIC is looking for when it asks for additional evidence; 3) claimants complain that they do not understand the procedures for providing treating physicians copies of the SEM searches and IH reports; 4) some claimants stated that they did not receive copies of specialist reports with the recommended decision to deny a claim; and 5) claimants do not know the procedure for obtaining a copy of the policies and procedures that are relevant to their claim.**

**Response:** OWCP understands that claimants may be frustrated by the complexity of the EEOICPA and the process required to prove a claim. While OWCP staff seeks to aid claimants in establishing their entitlement to an award of benefits under the law, it is the claimant who bears the burden of proving by a preponderance of evidence the existence of each and every criterion necessary to establish eligibility under any compensable claim category. The agency agrees that it is helpful when claimants understand their role in the process versus the supportive role of OWCP staff in collecting evidence, verifying employment, documenting exposure(s), proving causation, and determining an award or denial of benefits under EEOICPA. It is beneficial when OWCP can help claimants understand OWCP’s policies and procedures and provide copies of specialist reports.

OWCP is committed to clear, transparent administration of the EEOICPA. As part of this commitment, we maintain the Federal (EEOICPA) Procedure Manual (PM), bulletins, and circulars online for public access. The duties of the Claims Examiner (CE), as well as the steps in the adjudication of a claim, are clearly outlined in the PM. During the development of a claim, CEs communicate with claimants primarily by phone and through written development letters to guide them through the claims process. This is when the CE provides specific information regarding what is required to adjudicate the claim, as well as what information the CE will obtain (e.g., employment and exposure records). OWCP continually works with claims staff to ensure that the development letters are specific in requesting what is needed and advising of actions the CE will take or has taken already. In addition, in 2018, OWCP leadership provided specific guidance to all staff at each district and Final Adjudication Branch (FAB) office, advising that exposure and medical evidence (as appropriate) should be shared with treating physicians prior to adjudication whenever possible. Finally, over the last three years, the DEEOIC nurses have assisted the CEs by calling physicians' offices directly in an effort to assist claimants in obtaining what is needed.

In addition, during all general outreach events DEEOIC staff provide a detailed review of the information that the CE obtains automatically, and that which is requested from the employee, including a discussion of employment and medical records, and the Site Exposure Matrix (SEM). The authorized representative workshops also include two days' worth of information in small settings, in which claims staff provide very specific information regarding the evidence required during each phase of adjudication.

In developing further efforts to address these concerns, it would be of assistance to have a quantitative analysis of how often these complaints are made, how many claimants have made them, and if there is a specific region or location where these complaints are concentrated. OWCP would also benefit if the Ombudsman could advise of these specific incidents as they occur so that we can more directly address any specific issues.

## **5 – Home Health Care and Medical Billing Issues**

**The Ombudsman noted that some of the requests for assistance their office received involved issues relating to home health care (HHC) or medical billing issues. He noted that many authorized representatives do not assist their clients with issues related to home health care and medical bill pay and often claimants are trying to resolve these issues on their own.**

**The Ombudsman mentioned the following issues: 1) claimants who do not have access to the internet cannot obtain a list of enrolled providers; 2) claimants wonder if DEEOIC could refine or tailor the list of enrolled providers for each claimant instead of providing the entire list; 3) claimants, authorized representatives, and home health providers complained of lapses in HHC as they awaited a response to a request for authorization or reauthorization of care; and 4) HHC providers complained that they did not know how to proceed when they encounter claimants who need help/assistance with an EEOICPA claim, specifically, if the claimant is having trouble articulating his/her concerns to DEEOIC/RC's and/or the DEEOIC/RC is having trouble understanding the claimant's request.**

**Response:** OWCP agrees that communication and clarity with claimants and enrolled medical providers regarding medical benefits under EEOICPA, authorizations and reauthorizations for medical care, and the provider's role in assisting claimants is helpful. OWCP has made significant improvements in addressing services related to HHC and medical billing issues.

In FY 2016, OWCP/DEEOIC began steps to create a centralized unit responsible for the review and adjudication of all HHC and other ancillary medical benefits requests. In April 2018, the reorganization was finalized and DEEOIC created a new Branch of Medical Benefits Adjudication and Bill Processing, which has a new Branch Chief and two Unit Supervisors, one overseeing Medical Bill Processing and Program Integrity and the second overseeing Medical Benefits Adjudication.

Employees selected to serve as Medical Benefits Examiners (MBEs) are experts in medical authorizations and billing. The OWCP restructuring ensures an efficient and consistent decision-making process with respect to medical requests, and increased effectiveness in processing the medical benefits claims. The MBE team's goals include better communication with physicians and claimants regarding what is required and why, efficient processing of requests, alerting claimants of enrolled providers, and effectively addressing authorizations and reauthorizations of care.

OWCP sends out email alerts to subscribers that provide ongoing and new information about the medical bill process and related issues, and it conducts quarterly teleconference calls with physicians and physicians' staff to answer questions about authorizations, billing, and payments. OWCP has made changes to the PM, brochures, website, and training materials to keep everyone abreast of changes and new information related to health care and medical billing.

## **6 – Issues Related to the Administration of the Program**

**The Ombudsman mentioned the following concerns: 1) claimants may not know the procedures for reporting inappropriate customer service; 2) claimants fear retaliation and are hesitant to report incidents of inappropriate customer service to the office handling their claims or to a general e-mail address; they wonder if they can report incidents of inappropriate customer service to a specific person; 3) some claimants do not believe that DEEOIC's customer satisfaction survey is totally anonymous but feel that those who leave negative comments can be identified; and 4) claimants and HHC providers complain that they do not receive updates when their claims or requests for authorization or reauthorization of HHC are delayed.**

**Response:** OWCP agrees that reporting and addressing any inappropriate customer service issues is of the utmost importance. The agency also agrees that it is important to notify claimants when a request for authorization or reauthorization of HHC is delayed.

While OWCP cannot currently provide a single point of contact for complaints, OWCP staff is trained in customer service, and OWCP's management teams at the national office and the district and FAB offices strive to work with claimants and staff to resolve all complaints. OWCP

encourages claimants to submit comments and/or customer service complaints in writing, by phone, through public email, or via customer satisfaction survey. All responses and comments made on the customer satisfaction survey are anonymous. If the claimants would rather not provide feedback in the manners we have available, it would be helpful if the Ombudsman's office could relay those complaints directly to OWCP at the times they are received, so that specific problems can be addressed directly.

Regarding HHC reauthorizations, all require review and updated medical information prior to expiration of the authorization. MBEs send notification letters to providers and claimants sixty (60) days prior to expiration, reminding them of the need for updated medical information. A failure to provide updated information can result in another reminder letter, again stating the need for updated medical information. A failure to produce updated medical evidence or a letter of medical necessity may ultimately result in a denial letter advising that care cannot be reauthorized due to lack of necessary medical evidence. If the physician or claimant is not clear about the exact information that is needed, he or she may contact the MBE, and the MBE will provide a verbal explanation to the physician or claimant of what is required and why. Upon receipt of medical evidence, it is the MBE's responsibility to evaluate such evidence and determine if information provided is sufficient to authorize the care requested. If the medical information is deficient or unclear, the MBE explains the nature of the deficiencies and the specific information necessary in order to proceed with adjudication of the HHC request.

## **7 – Issues Related to Weighing Evidence and Due Process**

**The Ombudsman's summary states: "Claimants continue to argue that there is a need for independent review of determinations made by DEEOIC. In the opinion of these claimants, the FAB (Final Adjudication Branch) does not provide the level of independent review that they deem necessary. For instance, claimants argue that the FAB does not independently review the validity of procedures and policies announced by DEEOIC. Rather, claimants contend that because the procedure or policy was established by DEEOIC, the FAB automatically accepts the procedure or policy as valid. Claimants adamantly believe that some of the policies and procedures announced by DEEOIC would not be found valid if reviewed by an independent entity. In support of this belief, claimants point to the work of the ABTSWH [Advisory Board on Toxic Substances and Worker Health] as they advise the Secretary of Labor on the technical aspect of some of the scientific and medical policy issues of this program. In particular, claimants point to the ABTSWH recommendation to rescind Circular 15-06.**

**In the view of some claimants, expanding the ABTSWH and its mission to include advising the Secretary on legal issues facing this program would be an effective way to provide the independent review that they believe is necessary. In particular, claimants believe that the mission of the Board should be expanded to include providing broader guidance on the weighing of evidence and on the due process issues."**

**Response:** OWCP acknowledges that claimants have expressed concerns about FAB's independence. However, the agency respectfully disagrees with the Ombudsman's suggestion that claims/cases be reviewed outside the current process.

Congress itself endorsed FAB's role in the administrative process. 42 U.S.C. § 7385s-6(b) was an acknowledgment by Congress that the existing FAB structure provided an appropriate level of independent review: it permitted the Secretary of Labor – in lieu of establishing a wholly separate review process for claims filed under newly-enacted Part E – to use the FAB process for both Part B and Part E claims.

The current structure of the EEOICPA program maintains the necessary independence of the FAB and allows for an independent and objective review of claims. FAB is organizationally separate from the district offices, and operates under distinct operational goals and measures. The recommended decisions issued by the district offices granting and/or denying benefits are forwarded to the FAB for review. The FAB then conducts an independent, *de novo* review of the claim. Claimants are given an opportunity to object to all or part of the recommended decisions before the FAB, and the FAB considers objections filed by claimants and conducts hearings, if requested to do so, before issuing final decisions on the claims.

Under the Act, claimants are also afforded independent review of their claims in the federal court system. Those who are adversely affected or aggrieved by a final decision of the FAB can seek judicial review of that decision in United States district court. Since 2006, more than 110 claimants have sought judicial review in a variety of federal district courts, courts of appeal, and the Supreme Court. Taken together, out of all of these judicial proceedings, the decisions on claims under EEOICPA have only been reversed twice. Two other DEEOIC decisions were remanded for further administrative claims actions, while the remaining judicial challenges did not overturn DEEOIC's decisions.

Expanding the ABTSWH and its mission, to include advising the Secretary on legal issues facing this program, would require a statutory change. Currently, the statute does not require lawyers be on the Board, nor does it include legal issues as part of the Board's mandate.

The Supreme Court has recognized that an administrative agency's authority and responsibility to administer a legislatively created program necessarily includes the authority to make rules to fill in any gap in the legislation left, implicitly or explicitly, by Congress. Toward that end, federal agencies use informal means of written communication, including procedure manuals, bulletins, and circulars, to publicly disseminate policy and procedure. These so called "interpretive rules" do not have legal force; rather, they are meant to advise the public of how an agency interprets the statutes and rules that do have the force of law. Interpretive rules are generally not subject to formal notice and comment rulemaking procedures under the Administrative Procedure Act. As such, the agency's reliance on them in adjudicating a claim fully comports with the requirements of due process.

## **CONCLUSION**

OWCP administers its responsibilities under the EEOICPA with the intent of following the will of Congress in enacting the EEOICPA: to pay compensation and medical benefits to all eligible nuclear weapons workers (or their eligible survivors) who incurred illnesses in the performance of duty at a covered facility. As of September 9, 2018, DEEOIC has awarded compensation and medical benefits totaling more than \$15.45 billion under both Part B and Part E of the EEOICPA. During this time, 120,876 workers or their families have received more than \$11.09 billion in compensation and more than \$4.36 billion in medical expenses associated with the treatment of accepted medical conditions.

OWCP appreciates the work of the Office of the Ombudsman and their assistance in helping EEOICPA stakeholders and will continue to work toward improving this program and providing quality assistance to eligible employees, former employees, and their eligible family members.