UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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

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MEETING

+ + + + +

WEDNESDAY, SEPTEMBER 21, 2016

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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

C-O-N-T-E-N-T-S

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

1:05 p.m.

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

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

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

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

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

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

CHAIR REDLICH: Yes, I am.

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

MEMBER DEMENT: Here.

MS. RHOADS: Mr. Kirk Domina.

MEMBER DOMINA: I'm here.

MS. RHOADS: Dr. Laura Welch.

MEMBER WELCH: I'm here.

MS. RHOADS: Mr. James Turner.

MEMBER TURNER: Here.

MS. RHOADS: And Dr. Steven Markowitz.

MEMBER MARKOWITZ: I'm here.

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

MEMBER VLIEGER: I'm here.

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

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

Copies of all meeting materials and

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

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

The Board's website can be found at dol.gov/owcp/energy/regs/compliance/advisoryboard.htm.

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

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

EnergyAdvisoryBoard@dol.gov.

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

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

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

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

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

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

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

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

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

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

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

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

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

MEMBER WELCH: Yes.

MEMBER VLIEGER: Yes.

CHAIR REDLICH: Okay.

MEMBER TURNER: Yes.

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

So does everyone have the agenda?

MEMBER WELCH: Yes.

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

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

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

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

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

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

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

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

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

used.

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

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

MEMBER VLIEGER: Yes. This is Faye.

MEMBER DEMENT: Yes, and this is John. I think, you know, we received data that were Part B and Part E. And, clearly, there are lots of people who file under those parts. And so it becomes a little fuzzy for some of the

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

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

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

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

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

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

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

CHAIR REDLICH: Okay. So --

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

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

MEMBER MARKOWITZ: Okay.

MS. RHOADS: -- go check.

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

MS. RHOADS: Thank you.

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

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

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

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

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

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

CHAIR REDLICH: Yes.

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

CHAIR REDLICH: Oh, okay.

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

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

So I think it is a little unavoidable

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

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

CHAIR REDLICH: Okay.

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

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

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

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

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

MEMBER DEMENT: Is this better?

MEMBER MARKOWITZ: Oh, much.

CHAIR REDLICH: Yes. Thank you.

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

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

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

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

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

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

sensitivity about 55 percent, and silicosis about 67 percent.

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

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

MEMBER DEMENT: Yes, of course.

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

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

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

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

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

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

CHAIR REDLICH: So my question was

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

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

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

MEMBER DEMENT: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MEMBER DEMENT: Yes. I --

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

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

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

For example, the employee not covered,

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

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

MEMBER DEMENT: Yes, it is.

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

MEMBER DEMENT: Yes. And I --

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

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

MEMBER WELCH: Right.

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

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

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

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

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

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

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

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

MEMBER DEMENT: Right.

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

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

MEMBER DEMENT: Right.

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

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

MEMBER DEMENT: Well --

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

MEMBER DEMENT: Right.

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

MEMBER DEMENT: Right.

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

MEMBER DEMENT: Yes.

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

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

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

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

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

MEMBER DEMENT: Right.

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

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

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

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

MEMBER WELCH: Yes.

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

MEMBER WELCH: Yes.

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

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

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

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

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

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

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

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

MEMBER DEMENT: Right.

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

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

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

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

MEMBER DEMENT: Yes. I looked at it.

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

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

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

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

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

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

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

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

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

MEMBER DEMENT: And that's --

CHAIR REDLICH: Because I --

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

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

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

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

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

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

MEMBER DEMENT: So --

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

MEMBER DEMENT: Right.

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

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

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

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

CHAIR REDLICH: The initial one?

MEMBER DEMENT: Yes.

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

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

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

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

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

MEMBER DEMENT: Okay. Just --

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

MEMBER DEMENT: -- I'll proceed --

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

MEMBER DEMENT: Oh, yes.

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

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

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

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

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

So this goes back to weighing the

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

CHAIR REDLICH: Yes. So thank you. And then, probably, I think it goes back to the point that, I think, Laura had in terms of in the prior request of seeing what, you know, sort of educational or guidance documents the physicians are being provided, to help them in the decision making, correct? Because we don't know if it's actually the same thing that's in, you know, the act or in the information that we have.

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

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

MEMBER WELCH: We don't know anything

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

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

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

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

looking there.

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

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

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

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

MEMBER DEMENT: You're welcome.

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

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

CHAIR REDLICH: -- jumpstart the process --

COURT REPORTER: It's just difficult to understand.

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

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

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

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

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

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

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

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

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

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

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

MEMBER DEMENT: Right.

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

MEMBER DEMENT: Those cases are quite voluminous.

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

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

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

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

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

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

CHAIR REDLICH: Yes.

MEMBER MARKOWITZ: --the hold up.

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

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

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

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

get.

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

MEMBER WELCH: If you can.

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

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

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

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

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

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

CHAIR REDLICH: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIR REDLICH: Okay.

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

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

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

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

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

MEMBER WELCH: He's talking over you.

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

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

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

CHAIR REDLICH: Yes.

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

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

MEMBER MARKOWITZ: Right. All right.

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

MS. RHOADS: Okay.

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

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

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

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

could split up the time, but --

(Simultaneous speaking.)

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

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

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

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

CHAIR REDLICH: Yes. Is that correct, Carrie?

MS. RHOADS: That's right.

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

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

MEMBER WELCH: That's 90, yes.

CHAIR REDLICH: Yes.

(Laughter.)

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

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

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

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

way.

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

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

CHAIR REDLICH: Okay.

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

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

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

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

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

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

CHAIR REDLICH: Okay. So --

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

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

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

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

CHAIR REDLICH: Yes, definitely.

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

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

MEMBER WELCH: That makes sense.

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

And I think we could also just have a

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

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

MEMBER WELCH: Sure.

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

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

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

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

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

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

CHAIR REDLICH: Okay. I mean, I would

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

MEMBER DOMINA: Hey, this is Kirk.

CHAIR REDLICH: Yes, and no summary at all.

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

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

So I think we need to put, you know,

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

MEMBER WELCH: That's a good point.

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

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

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

(Telephonic interference.)

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

MEMBER WELCH: Yes.

MEMBER DOMINA: But anyway, it's just

my --

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

MEMBER DOMINA: Yes.

CHAIR REDLICH: Okay. Those are good suggestions.

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

MEMBER WELCH: Yes. And I think --

CHAIR REDLICH: So I will, again --

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

find ones that are --

CHAIR REDLICH: Sure, yes.

MEMBER WELCH: -- really interesting and useful.

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

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

the suggestions. Okay.

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

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

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

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

CHAIR REDLICH: Got it.

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

CHAIR REDLICH: Okay. I guess --

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

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

percentage of these are referred?

MEMBER WELCH: We don't know that.

CHAIR REDLICH: Okay.

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

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

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

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

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

CHAIR REDLICH: What do people think?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MEMBER WELCH: Yes.

MEMBER MARKOWITZ: Yes. I'm good.

MEMBER DEMENT: Okay.

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

like.

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

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

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

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

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

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

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

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

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

MEMBER MARKOWITZ: Right. Right. Yes.

CHAIR REDLICH: I mean, could I send

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

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

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

MEMBER MARKOWITZ: Right.

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

MEMBER WELCH: No. I don't have

anything else.

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

MEMBER WELCH: Great question.

CHAIR REDLICH: I don't want to --

MEMBER MARKOWITZ: I know that --

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

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

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

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

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

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

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

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

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

In our April meeting, you had

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

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

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

MEMBER MARKOWITZ: Right.

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

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

CHAIR REDLICH: Well, I mean, I agree

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

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

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

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

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

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

MEMBER TURNER: And this is James.

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

available for anybody which is good.

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

MEMBER WELCH: With Dr. Maier, definitely.

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

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

MEMBER TURNER: At National Jewish Health Center.

CHAIR REDLICH: Okay. And the topic was?

MEMBER TURNER: Sarcoidosis research educational program.

CHAIR REDLICH: Okay. If I can't find

it, I will call you. Thanks.

MEMBER TURNER: Okay.

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

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

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

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

CHAIR REDLICH: Okay. Very good.

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

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

MEMBER MARKOWITZ: Thank you.

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

(Whereupon, the above-entitled matter went off the record at 2:50 p.m.)

C E R T I F I C A T E

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.

Neal R. Gross

Court Reporter