§ 79.46 Proof of nonmalignant respiratory disease.

(a) In determining whether a claimant developed a nonmalignant respiratory disease following pertinent employment as a miner, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed a nonmalignant respiratory disease must be supported by medical documentation. In cases where the claimant is deceased, the claimant’s beneficiary may submit one or more forms of documentation specified in paragraph (d)(2). A living claimant must at a minimum submit the medical documentation required in paragraph (d)(3) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate,
review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section. With respect to a deceased claimant, the Program will treat as equivalent to a diagnosis of pulmonary fibrosis any diagnosis of “restrictive lung disease” made by a physician employed by the Indian Health Service.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant’s medical condition. In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of a nonmalignant respiratory disease.

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant’s medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. In cases where the claimant is deceased, the Program will accept as proof of the claimant’s medical condition such medical records or abstracts of medical records containing a verified diagnosis of a nonmalignant respiratory disease.

(d) (1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted a nonmalignant respiratory disease, including pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis:
   (i) Pathology report of tissue biopsy;
   (ii) Autopsy report;
   (iii) If an x-ray exists, the x-ray and interpretive reports of the x-ray by a maximum of two NIOSH certified “B” readers classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the “ILO”), or subsequent revisions;
   (iv) If no x-rays exist, an x-ray report;
   (v) Physician summary report;
   (vi) Hospital discharge summary report;
   (vii) Hospital admitting report;
   (viii) Death certificate, provided that it is signed by a physician at the time of death; or
   (ix) Documentation specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(2) In order to demonstrate that the claimant developed cor pulmonale related to fibrosis of the lung, the claimant or beneficiary must, at a minimum, submit one or more of the following medical records:
   (i) Right heart catheterization;
   (ii) Cardiology summary or consultation report;
   (iii) Electrocardiogram;
   (iv) Echocardiogram;
   (v) Physician summary report;
   (vi) Hospital discharge summary report;
   (vii) Autopsy report;
   (viii) Report of physical examination; or
   (ix) Death certificate, provided that it is signed by a physician at the time of death.

(3) Notwithstanding any other documentation provided, a living claimant must at a minimum provide the following medical documentation:
   (i) Either:
      (A) An arterial blood gas study administered at rest in a sitting position, or an exercise arterial blood gas test, reflecting values equal to or less than the values set forth in the tables in appendix B to this part; or
      (B) A written diagnosis by a physician in accordance with §79.41(p); and
   (ii) One of the following:
      (A) A chest x-ray administered in accordance with standard techniques accompanied by interpretive reports of the x-ray by a maximum of two NIOSH
Department of Justice

§ 79.51 Definitions.

(a) Chronic renal disease means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) Cor pulmonale means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(c) Designated time period means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) Employment for at least one year means employment for a total of at least one year (12 consecutive or cumulative months).

(e) Fibrosis of the lung or pulmonary fibrosis means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(f) Kidney tubal (tubular) tissue injury means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(g) Miller or uranium mill worker means a person who operated or otherwise worked in a uranium mill.

(h) National Institute for Occupational Safety and Health (NIOSH) certified “B” reader means a physician who is certified as such by NIOSH. A list of certified “B” readers is available from the...