



**DEPARTMENT OF LABOR  
OFFICE OF WORKERS' COMPENSATION PROGRAMS  
DIVISION OF ENERGY EMPLOYEES OCCUPATIONAL  
ILLNESS COMPENSATION**

**FEDERAL ENERGY EMPLOYEES OCCUPATIONAL  
ILLNESS COMPENSATION PROGRAM ACT  
PROCEDURE MANUAL**

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**CHAPTER 12 – REPRESENTATIVE SERVICES**

1. **Purpose and Scope.** This chapter contains a discussion regarding persons who represent the interests of claimants before the DEEOIC. It provides guidance to DO and FAB staff on the designation of a representative, the role and functions of a representative, and fees charged by representatives for their services.
2. **Authority.** Under 20 C.F.R. §§ 30.600 and 30.601, a claimant may authorize any person, not otherwise prohibited by law, to represent him or her. The authorization includes allowances for communicating with claims staff, accessing case file documentation, receiving copies of decisions, submitting objection(s), filing appeals, and seeking medical authorizations.
  - a. **No Requirement for Representation.** A claimant is not required to designate a representative to file a claim or receive any benefit available under the EEOICPA.
  - b. **Exclusive Representation.** If a claimant chooses to have an AR, he or she may appoint only one representative at a time. The claimant has the ultimate decision-making authority to designate or remove his or her representative from acting on his or her behalf with regard to his or her claim. He or she can exercise this authority at any time and for any reason. In situations where a POA or court-issued instrument exists that grant someone legal decision-making authority regarding the interest of the claimant, that person has authority to appoint or remove a DEEOIC representative.
  - c. **Authorization in Writing.** Any representative appointment must be submitted in writing. The information that is necessary for a claimant to appoint a representative is the representative's name, mailing address, and telephone number. The claimant is to date and sign the request. The claimant may appoint a representative by filling out the "Authorization for Representation/Privacy Act Waiver" (Exhibit 12-1), but use of this form is not required. If the appointing document does not contain the representative's full name, telephone number and address, the CE or FAB staff person obtains that information. The CE or FAB staff person is to determine within ECS whether DEEOIC has the AR registered with known contact information that the CE or FAB staff person can assign to the case file record or that a new AR entry is necessary. After inputting new AR contact information, a DO or FAB manager will validate the entry.
  - d. **Removal of Representative.** A claimant may elect to either remove or change a representative at any time and for any reason. When removing a representative, the claimant is to submit a signed and dated written request that identifies clearly the person removed as representative. When replacing a representative, the claimant must state in writing that he or she is removing the previous representative and replacing that person with another person. The claimant must name the previous representative and name the new representative, along with the new representative's mailing address and telephone number. Once the claimant removes a person from serving as his or her representative, the assigned CE or FAB staff person is no longer to interact with that individual in relation to the claimant's case file. A representative may also resign his or her appointment with

a signed statement of such. The CE or FAB staff person will update ECS regarding removal and/or change of representative.

3. **Length of Appointment.** DEEOIC recognizes the authority of a properly appointed AR throughout the entire claims process (including any hearing), unless or until the claimant removes the appointment, the representative withdraws, or the claimant dies.

a. **Death of the claimant.** In the case of a claimant's death, his or her DEEOIC representative appointment ceases. In addition, any appointment such as an attorney-in-fact under a POA or a conservator under a conservatorship ends.

4. **AR's Role.** The AR's role in the claims process depends on the scope of the authority that the claimant grants him or her. Unless the claimant's authorization specifies otherwise, a properly appointed AR has the authority, to the same extent as the claimant, to present or seek evidence, make factual or legal arguments, or seek medical authorization, interact with DEEOIC staff, and obtain information from the case file. Any notice or other communication from the DEEOIC that relays a requirement for claim adjudication is considered satisfied, if the DEEOIC sends it to a properly designated AR. The DEEOIC considers any communication sent to an AR the same as communication to the claimant. In most situations, the CE or FAB staff person is to relay information or other communications directly to the AR, with a copy going to the claimant. Where claimant contact information is unavailable, the CE or FAB staff person communicates solely with the AR. However, the CE or FAB staff person may choose to contact the claimant directly, if an AR is unresponsive, provides unclear guidance or direction, or a contradiction exists between information received from an AR versus the claimant. In any situation, the claimant is the final arbiter of any matter involving his or her claim. An appointed AR, who does not possess legal authority through a POA or court document to act on behalf of a claimant, does not have the authority to sign for a claimant in initiating a claim or sign an EN-20 Payment Form for the claimant.

5. **Authority of an Attorney-in-Fact or Legal Conservator/Guardian.** A power of attorney (POA) is a legal authorization that gives a designated person, named as an agent or attorney-in-fact, the power to act for the claimant with respect to the subjects described in the POA. There are other types of legal designations that permit an individual to act in the name of the claimant including conservators or guardianships. In any of these situations, a written legal instrument must exist that grants legal authority for someone to act on behalf of the claimant. The written instrument will include language that describes the specific authorities granted to the attorney-in-fact to act on behalf of another and can be different from one situation to another. An attorney-in-fact may possess broad or limited authority to make decisions about the claimant's property, finances, investments, or medical care. In some instances, the authority conveyed in a legal instrument identifying an attorney-in-fact may only be effective when the claimant is determined to be incapacitated and unable to care for himself or herself in a particular way as set out in the instrument. In other situations, the agent or attorney-in-fact may be required to sign documents for the claimant using specified language.

To maintain situational awareness of individuals named as attorneys-in-fact and their permitted authority, DEEOIC must document a CE's review of submitted legal instruments that allow an attorney-in-fact or other designated individuals to act on behalf of a claimant. The assigned CE will perform such assessments and is responsible for preparing an attorney-in-fact memorandum

to file ([Exhibit 12.2](#)) that describes the extent of authority one or more attorneys-in-fact have to act on behalf of a claimant. With the receipt of subsequent submissions of legal instruments relating to an attorney-in-fact designation, the CE is to conduct a review to determine if a supplemental attorney-in-fact memorandum is required that updates the status of individuals with a capacity to act on behalf of a claimant.

- a. When reviewing a legal instrument that communicates an authority for someone to act on behalf of a claimant, the CE conducts a comprehensive review of the case file to determine whether an attorney-in-fact review memorandum already exists. This review will occur upon receipt of a legal instrument that communicates that an individual has some level of authority to act on behalf of a claimant. The CE also needs to assess any newly transferred cases with pending adjudication actions to identify properly any individual that may serve as an attorney-in-fact for a claimant. If a HR or MBE receives a legal instrument relating to the naming of an attorney-in-fact during the course of their case adjudication duties, the HR or MBE is to notify the assigned CE in OIS that a document has been received requiring attorney-in-fact review.
  - (1) Should the CE ascertain that an existing attorney-in-fact memorandum to file exists that describes accurately the individual’s ability to act on behalf of the claimant, the CE ensures the incoming legal instrument is categorized in OIS as reviewed complete and indexed properly.
  - (2) In those situations where the CE determines that no prior attorney-in-fact memorandum is contained in the case file record, or if information identified by the CE requires an update to a previously completed attorney-in-fact file memorandum, the CE will draft an additional memorandum to file. The memorandum is to identify the name and contact information (if available) of any named attorney-in-fact possessing authority to act on behalf of a claimant. Additionally, for each named attorney-in-fact, the CE will describe concisely the extent of authority each attorney-in-fact has to serve on behalf of the claimant. In most instances, the CE will find that the attorney-in-fact either has broad authority to act on behalf of the claimant, or that their authority is limited in some manner to certain functions such as medical decision-making. Once the memorandum is completed, the CE is to upload a signed, dated copy of the memorandum to OIS that the CE is to index as “Other Documents, POA.” In the document index note field, the CE includes a standard phrase, “POA Scope of Authority.”

An attorney-in-fact with authority to act on behalf of a claimant is not necessarily the equivalent of a properly designated AR and might not be entitled to case file copies. In those situations, even with the identification of an attorney-in-fact, the only individuals entitled to engage with DEEOIC for matters relating to claim adjudication may be the claimant or his or her designated AR. An exception exists for a claimant with an attorney-in-fact who has broad authority to act on behalf of the claimant in connection with his or her litigation, property, or with claims for

government benefits. Under that scenario, the attorney-in-fact should be considered the designated AR and will be the primary point of contact for any claim adjudication business and will be entitled to any and all aspects of the case file as if he or she were the claimant.

- (3) When the CE determines that the legal authority of a person to act on behalf of a claimant is limited to a particular function that does not allow for engagement on the DEEOIC claim, he or she sends a letter to the claimant. The letter is to communicate to the claimant the scope of authority the attorney-in-fact has to interact with DEEOIC. If the claimant disagrees with the CE's interpretation of the attorney-in-fact authority to serve on their behalf, the CE will need to decide if further review is required including a referral to the Policy Branch for evaluation.
- b. Unless a POA exists that grants authority to an attorney-in-fact when the claimant is incapacitated and cannot handle their own affairs, the claimant retains the right to name a designated AR. An exception exists when either a guardian or conservator has been granted broad authority to act on behalf of the claimant due to the claimant's incapacitation to handle his or her own affairs by a court of competent probate jurisdiction. In these situations, the case file must contain a copy of the court order confirming the claimant's incapacitation which must also name a specific person to act on his or her behalf. The CE must determine if the guardian or conservator has the authority to make ALL decisions on behalf of, and act completely, in the stead of the claimant. In instances where the CE is unable to make that determination, the CE refers the matter to the Policy Branch for potential consultation with SOL. If it is determined the guardian or conservator possesses broad authority to act on behalf of an incapacitated claimant, then the guardian or conservator possesses the sole authority to designate another person as the AR to assist with claims adjudication functions. Any communications thereafter would be sent to that guardian or conservator and the designated AR (if any).
  - c. In any situation where a person other than the specified payee is signing the Form EN-20, the CE or a person designated by the district office to complete the referral must submit the documents purporting to grant such power for review by the SOL to ensure that they are valid under the applicable state law. The referrer prepares the POA referral package for SOL review. The referrer is to include in the referral package a completed Power of Attorney Memo to SOL ([Exhibit 12-3](#)). In addition to the Memo, the referrer is to include, a fully completed and signed EN-20, and a complete copy of the legal documents SOL must evaluate for legal sufficiency.

The referrer should consolidate all documents into a single PDF and image the document into OIS. The referral package is indexed as Category: Adjudication Documents, Subject: SOL Opinion, Description: POA for SOL review. The document status is "Review Complete" in OIS. Notification in OIS is not needed.

The referrer must then send an email to [zzOWCP-POA-PROCESSING@dol.gov](mailto:zzOWCP-POA-PROCESSING@dol.gov) confirming the POA referral. The referrer will attach the same image of the POA uploaded to OIS to the email and the email subject line should state clearly that the referral is Routine or Terminal. The referrer sets a reminder in ECS for follow-up after seven calendar days.

**Time Frame:** Within one hour of receipt for terminal claimants, the Policy Branch will send a reply to all parties in the email, advising of the receipt of the POA and referral to SOL. Routine referrals require an email reply within 48 hours.

SOL will process the POA referral and email a copy of the opinion/decision to the appropriate parties. SOL will use the same email address as listed above ([zzOWCP-POA-PROCESSING@dol.gov](mailto:zzOWCP-POA-PROCESSING@dol.gov)) to submit a copy of the completed referral. Upon receipt, the appropriate designee will scan and bronze the SOL response into OIS, indexing the document as Category: Adjudication Documents, Subject: SOL opinion, and Description: POA review memo from SOL for (payee name). The document status is “Unreviewed” in OIS.

The CE will review the document, mark as reviewed complete, and update ECS with the OIS Document Identification Number of the Solicitor’s response verifying that someone is permitted to sign the EN-20 on behalf of a claimant.

6. **Interaction with Representatives.** When a CE receives a document purporting to designate an authorized representative, the CE needs to review the document to ensure that the designation is valid, as outlined in [Chapter 12.2](#). If a FAB HR or a MBE receives an AR designation document, the HR or MBE is to send an OIS notification of its receipt to the assigned CE.

In reviewing the designation letter, the CE is responsible for ensuring that the request fulfils the requirements for designation of an AR, including replacement of the existing AR, as discussed earlier in this Chapter. Once the CE confirms that the designation meets the requirement for designating the AR, the CE is to prepare and mail the AR a written acknowledgment of their designation (copy to the claimant). A standardized acknowledgment letter is available to the CE in CCAT. Within the letter, the CE acknowledges the appointment and describes the extent to which the representative has an active role in the claims process. The letter also provides information concerning the DEEOIC conflict of interest policy. The CE must upload a copy of the outgoing letter properly in OIS. The CE is also responsible for updating ECS claimant information regarding the authorized representative in accordance with established coding procedure.

Once designated properly, DEEOIC staff may communicate with the designated representative and copy them on all written interactions intended for the claimant. DEEOIC staff may also communicate with employees of the designated representative, including legal assistants, administrative staff, paralegals, or other individuals in the employment of the representative.

7. **Representative Conflict of Interest Guidance.** Conflicts of interest can arise when a duly appointed AR has direct financial interests arising out of the acceptance of a claim, even if those



interests are only potential in nature, aside from the representational fees permitted under EEOICPA. This is because those other financial interests may be more lucrative to an AR, and therefore may be more important, than the potential amount of the fee for representing a client with a claim before DEEOIC. These sorts of divided interests on the part of ARs might motivate representatives to act in a manner contrary to a claimant's best interests and DEEOIC cannot permit such a circumstance to exist.

- a. During any routine case development or adjudication activity conducted by a CE, HR, or a MBE, evidence may reveal a potential conflict of interest. With the identification of any information, obtained through routine claims development or adjudication activity, that suggests a conflict of interest may exist involving a designated AR, the CE, HR, or MBE then becomes responsible for undertaking action to address the matter, as outlined below.
- b. A conflict of interest may exist if there is evidence that the AR is receiving financial benefits associated with the claim aside from the authorized fee permitted under the law. An incidence of conflict of interest includes evidence showing the AR works for, or is contracted by, an individual, organization or entity that concurrently receives monetary payment from DEEOIC for services, supplies or other resources affiliated with the claim. This includes a representative who is a family member or other relative of the claimant receiving a wage, contractual payment, or fee from a medical service provider that the DEEOIC has granted authorization to provide in-home health services for that claimant. Consent of the claimant does not absolve a conflict of interest.
- c. With the identification of any potential conflict of interest, action is required to evaluate the matter further. Conflict of interest situations that arise during a review of a file by the HR or MBE require that the HR or MBE document the situation with a note into ECS (using the COI note type). The HR or MBE is to then send an email notice to the assigned CE (with a courtesy copy to the DD or designee) explaining the circumstances of a potential conflict of interest. As the HR or MBE is not responsible for any assessment of the potential conflict, aside from the identification of evidence that suggests a potential conflict of interest, the HR or MBE does not upload the email notice to the CE into OIS.
- d. Potential conflicts of interest identified during a case review by the CE, or referred to the CE by a HR or MBE, require careful examination of the evidence. It is the role of the CE to conduct a review of the evidence to determine whether sufficient evidence exists to conclude reasonably that a conflict of interest may exist. Upon review, should the CE determine that there is no valid basis for further action with regard to a potential conflict of interest, the CE is to document their findings in a memo to the file.

If the CE determines that a potential conflict of interest exists, he or she is to conduct a comprehensive review of the case file to ensure that the conflict has not been evaluated and resolved previously. If there has been no previous effort to address the situation, then the CE must prepare a notice to the designated AR, with a courtesy copy to the claimant (see [Exhibit 12-4](#) for an example letter). The

notice is to include a descriptive explanation of the evidence that suggests that a conflict of interest may exist. The CE is to request that the AR prepare a signed statement responding to the inquiry that explains his or her response to the situation. Moreover, the letter is to state that if a conflict of interest does exist, the DEEOIC will no longer recognize the designation of the AR unless the AR takes appropriate action to eliminate the conflict. The letter is to include a statement allowing the AR 30 days to respond to the notice.

- e. Once the CE has issued a notice to an AR that a possible conflict of interest exists, the responsibility of assessing any subsequent response is the responsibility solely of the CE. Once the CE sends the letter to the AR regarding the potential conflict of interest, the AR may respond, or the AR may elect not to respond.
  - (1) Acknowledgement of a conflict by an AR requires that the AR submit a signed, written notice removing themselves as the designated AR or providing evidence that they have relinquished whatever financial arrangement, position, job or duty that created the conflict. The claimant also retains the capacity to remove the authorization of the representative at any time, and designate a new AR.
  - (2) If the AR contends that the circumstances identified do not constitute a conflict of interest under DEEOIC's policy, or no response is forthcoming within 30 days of when the development letter ([Exhibit 12-4](#)) was sent, the CE must carefully weigh the evidence of record. Should the AR provide sufficient rationale that absolves him or her of any conflict of interest, or if a weighing of the evidence of record leads to a finding that there is no conflict of interest, then the CE notifies the representative, in writing, with a copy to the claimant, that no further action is necessary.
  - (3) Should the CE decide that there is compelling evidence establishing the existence of a conflict of interest, DEEOIC can no longer recognize the designated AR as serving the interest of the claimant. Under this circumstance, the CE prepares a written notice explaining to the claimant that DEEOIC will no longer interact with the designated AR, because of an established conflict of interest. The letter is to describe the evidence that establishes the existence of the conflict. Moreover, the letter is to provide instruction for the claimant to designate an alternative AR, and also should provide guidance on re-designating the removed AR, so long as the circumstance that created the conflict no longer exists. The CE issues the letter solely to the claimant. With the publication of the letter, the CE is to remove the AR designation information from ECS for the identified claimant. The CE should create a correspondence in ECS and add a correspondence note documenting removal of the AR, effective the date of the letter. The CE is to also upload a memo into OIS documenting the removal of the AR. The CE is to ensure the OIS description fields describe clearly that the CE has removed the authorized representative's designation because of the identification of a conflict of interest.

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- f. If a CE removes an AR due to a conflict of interest, the CE is to notify the DD by email. The DD will then forward the notification to the PMB. The PMB will undertake an investigation to determine if the AR serves as a representative under other claims. The PMB will then notify the Policy Branch so it may coordinate with NAFO to evaluate those claims to determine if a conflict of interest exists in those instances as well.
- g. During the evaluation of any claim for a conflict of interest by a CE, should assistance be necessary, the CE may refer the matter to the Policy Branch for evaluation. The Policy Branch will undertake additional review of the situation and may confer with SOL to ascertain the proper action to be undertaken.
8. **Representative Fees.** A representative may charge a claimant a fee for services associated with representation before DEEOIC. Under 20 C.F.R. § 30.602, the OWCP is not responsible for any fee charged by a representative of an EEOICPA claimant, nor will it reimburse the claimant for any fees paid to the representative. Other than issues relating to the allowable fee under the EEOICPA, disputes over payment of fees, the quality of services rendered, or collection of monies owed are a personal matter between the claimant and his or her AR.
- a. **Fee Limits.** Under 20 C.F.R. § 30.603, for services rendered in connection with a claim pending before DEEOIC, a representative may not receive more than the following percentages of a lump-sum payment made to a claimant:
- (1) 2% for the filing of an initial claim with OWCP, provided that the representative was retained prior to the filing of the initial claim; plus
  - (2) 10% of the difference between the lump-sum payment made to the claimant and the amount proposed in the RD with respect to objections to the RD.
- b. **Limitations.** These maximum fee limitations apply even if the claimant and representative have agreed to other amounts in a contract or otherwise. Any such representative who violates this section shall be fined up to but not more than \$5,000. Pub. L. 106-398, Title XXXVI, § 3648; Pub. L. 107-107, § 3151(a)(6)
- c. A CE or FAB representative will refer any complaint of a violation of the fee schedule to the NO Policy Branch who will work with the SOL to determine if a referral to the DOJ is appropriate.
9. **Privacy Act Waivers.** A Privacy Act waiver grants the DEEOIC permission to copy all documents from the case file and send them to a person of the claimant's choosing. This person may be anyone the claimant wishes to receive material from the case file. The designated person will have no authority to make requests for additional information or sign documents on behalf of the claimant, unless the claimant submits additional documentation showing that the designee has such authority.

Employee:  
Case ID Number:

### AUTHORIZATION FOR REPRESENTATION/PRIVACY ACT WAIVER

To provide that a duly authorized representative serves only the interest of the claimant, DEEOIC will not recognize the designation of an authorized representative whom DEEOIC finds is directly benefitting financially as a result of his or her affiliation with a claim, aside from the fee authorized by law.

I,

\_\_\_\_\_  
(Name of Claimant)

\_\_\_\_\_  
(Address of Claimant)

\_\_\_\_\_  
(City, State, Zip of Claimant)

do hereby authorize:

\_\_\_\_\_  
(Name of Representative/Person receiving records)

\_\_\_\_\_  
(Address of Representative/Person receiving records)

\_\_\_\_\_  
(City, State, Zip of Representative/ Person receiving records)

\_\_\_\_\_  
(Phone Number of Representative/Person receiving records)

to **(check all that apply)**:

\_\_\_\_\_ serve as my representative in all matters pertaining to the administrative adjudication of my claim under the Energy Employees Occupational Illness Compensation Program Act of 2000 by the Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor.

\_\_\_\_\_ receive copies of all factual and medical evidence contained in my claim filed under the Energy Employees Occupational Illness Compensation Program Act of 2000 from the Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor.

I declare that the foregoing is true and correct, under penalty of perjury, pursuant to 28 USC § 1746. This authorization is effective on the date it is signed, and is effective until specifically revoked by me in writing.

\_\_\_\_\_  
(Signature of Claimant)

\_\_\_\_\_  
(Date)

**Attorney-in-Fact Memorandum to File****MEMORANDUM****DATE:** December 30, 2020**FROM:** Claims Examiner**CASE ID:** 12345

The purpose of this memorandum is to identify individuals who have a legal designation as an attorney-in-fact to act on behalf of a claimant as well as the scope of that authority.

**John Claimant**

John Claimant presented a January 1, 2020, Power of Attorney document that designates his spouse, Jane Claimant, as his attorney-in-fact. The Power of Attorney document describes Jane Claimant as having general authority to act as an attorney-in-fact for all matters involving the claimant.

**Sally Survivor**

Sally Survivor is 89 years old and resides in a nursing home suffering from severe dementia. In a June 1, 2018, Guardianship document, certified by a court in Memphis Tennessee, a court appointed Guardian, Joe Smith, has complete fiscal and medical decision-making authority to act on behalf of the claimant due to her incapacitation. Mr. Smith also has the authority to designate someone else as the AR, should he so choose.

**Joe Smith**

Joe Smith presented a September 1, 2018, Health Care Power of Attorney document that designates his children, John and Susan Child, equal authority to make medical decisions on behalf of the claimant. Although this document grants authority involving direct communications with treating physicians, John Smith and Susan Child are not authorized to sign any DEEOIC related claim forms such as an EE-16, as the POA does not explicitly convey that authority.

**Powers of Attorney Memo for SOL Review**

**DATE:**

**MEMORANDUM FOR:** **Counsel for Energy Employee’s Occupational Illness Compensation**

**From:** **Name**  
**Office Location**  
**Work Phone #**

**Subject:** **Power of Attorney Review**  
**Case ID Number –**  
**Payee Name –**

**POA State:**

**Priority:** **Routine**

Attached for your review is a document(s) that purports to grant an individual the authority to sign the EN-20 for the above-named payee. Once you have completed your review, please forward your response to the Policy Branch for upload to OIS.

**Encl:** Completed EN-20 Form  
POA or other legal documents (signed and dated)

**Notification to Representative of Conflict of Interest**

Date:

Claimant Name:

Case ID Number:

Representative Name

Address

City, State, Zip Code

Dear [Representative]:

According to our records, you have been designated as the authorized representative in the above case. As the authorized representative of the above claimant, you are expected to put your client's interests before your own private, non-representational direct financial interests in all of your dealings with the Division of Energy Employees Occupational Illness Compensation (DEEOIC). DEEOIC will consider you to have a prohibited "conflict of interest" if you could directly benefit financially from your client's Energy Employees Occupational Illness Compensation Program Act (EEOICPA) claim due to something other than your statutorily limited fee for representing your client in connection with his or her EEOICPA claim.

DEEOIC has received information that suggests a conflict of interest exists in this case.

***{Describe the evidence that suggests a conflict of interest. Be sure to include names, dates of letters, and all pertinent information to describe the evidence.}***

In light of this evidence, DEEOIC requests that you prepare a signed statement explaining your response to the above detailed evidence of a conflict of interest. Please submit your statement within 30 days from the date of this letter. Upon review of your statement, in conjunction with the evidence of record, DEEOIC will determine whether a conflict of interest exists in the case. If it is determined that a conflict of interest does exist, DEEOIC will no longer recognize you as the claimant's authorized representative unless the conflict of interest is eliminated. If you acknowledge that a conflict of interest does exist, you may resolve the conflict by either submitting a signed resignation as the claimant's authorized representative, or submitting evidence of the relinquishment of the charges, position, job, or duty creating the conflict.

Please contact the district office at XXX-XX-XXXX if you have any questions or concerns regarding this letter.

Sincerely,

Name

Job Title

Location &amp; Office

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- Version 1.0 consolidates the PM into one document, changing the outline formatting and numbering sequence of chapters. Version 1.0 contains no substantive changes to existing program procedure. [EEOICPA Transmittal No. 17-06](#) describes the specific revisions which constitute v1.0.
  - Version 1.1 updates guidance provided in Chapter 15 - Establishing Toxic Substance Exposure and Causation and provides expanded guidance on assessing claim compensability. [EEOICPA Transmittal No. 17-07](#) describes the specific revisions which constitute v1.1.
  - Version 2.0 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 18-01](#) describes the specific revisions which constitute v2.0.
  - Version 2.1 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 18-02](#) describes the specific revisions which constitute v2.1.
  - Version 2.2 includes Appendix 3 – Index of Archived Bulletins and Circulars. [EEOICPA Transmittal No. 18-03](#) describes the specific revision which constitutes v2.2.
  - Version 2.3 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 18-04](#) describes the specific revisions which constitute v2.3.
  - Version 3.0 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 19-01](#) describes the specific revisions which constitute v3.0.
  - Version 3.1 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 19-02](#) describes the specific revisions which constitute v3.1.
  - Version 4.0 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 20-01](#) describes the specific revisions which constitute v4.0.
  - Version 4.1 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 20-02](#) describes the specific revisions which constitute v4.1.
  - Version 4.2 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 20-03](#) describes the specific revisions which constitute v4.2.
  - Version 4.3 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 20-04](#) describes the specific revisions which constitute v4.3.
  - Version 5.0 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 21-01](#) describes the specific revisions which constitute v5.0.
  - Version 5.1 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 21-02](#) describes the specific revisions which constitute v5.1.
  - Version 6.0 updates guidance provided in multiple chapters throughout the PM. [EEOICPA Transmittal No. 22-01](#) describes the specific revisions which constitute v6.0.



- Version 7.0 updates guidance provided in multiple chapters throughout the PM. Following are the content edits that make up PM v7.0:

- **Chapter 7 – Case Creation**

- Ch. 7.7a (Example 9) has been modified to clarify that a claim for chronic silicosis is only evaluated under both Parts B and E when the claimant was employed in either Nevada or Alaska *during* the mining of underground tunnels. The language in v6.0 previously read:

*Example 9: If a claimant identifies chronic silicosis on the Form EE-2, the claim is evaluated under both Parts B and E only when the claimed employment was in underground tunnels in Nevada or Alaska. If the claimant employment is outside of these facilities, the claim is adjudicated under only Part E.*

It has been updated in v7.0 to:

*Example 9: If a claimant identifies chronic silicosis on the Form EE-2, the claim is evaluated under both Parts B and E only when the claimed employment was during the mining of underground tunnels in Nevada or Amchitka Island, Alaska. If the claimant employment is outside of these facilities, the claim is adjudicated under only Part E.*

- **Chapter 12 – Representative Services**

- Ch. 12.5 has been edited to clarify the role of the Claims Examiner (CE) in assessment of legal documents conveying authority for someone to serve on behalf of a named claimant. This change also includes a new Exhibit 12-2, Attorney-in-Fact Memorandum to File. As such, the remaining exhibits of Chapter 12 have been renumbered accordingly. The language in v6.0 previously read:

5. Authority of an Attorney-in-Fact or Legal Conservator/Guardian. *A person with POA to act in the name of the claimant is an “attorney-in-fact.” There are also other types of legal designations that may exist such as a conservator or guardian. In any of these situations, a written instrument must exist that grants legal authority for someone to act on behalf of another. The written instrument will include language that describes the specific authorities granted for one person to act on behalf of another, and can be different from one situation to another. A general POA authorizes one person to have complete authority to act on someone’s behalf on all matters, including signing documents and forms. In a special or limited POA, the authority to act may be limited to particular topics. Therefore, if an individual claims to have POA or some other legal authority to act on behalf of a claimant, the CE or FAB staff person must obtain a copy of the document conferring such authority. He or she must carefully examine the document to determine the scope of the legal authority granted. The CE or FAB staff person is to recognize any POA or other legal appointment, if the document upon which that appointment is made, conveys broad powers for the appointee to act on behalf of the claimant.*

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*Once the CE or FAB staff person receives a legal document for a person to act on behalf of a claimant, he or she will determine if that person is already registered in ECS as an attorney-in-fact, conservator or guardian and, if found in the registry, assign that person to the case record. If the CE or FAB staff person determines that a legal instrument designates an unregistered person to act on behalf of the claimant, they are to input into ECS the contact information for that individual. ECS requires a manager to validate the accuracy of any new attorney-in-fact, conservator or guardian added to ECS.*

*In those situations where the CE or FAB staff person determines that the legal authority of a person to act on behalf of a claimant is limited to a particular function that does not allow for engagement on the DEEOIC claim, he or she sends a letter to the claimant. The letter is to communicate what the concern(s) are regarding the appointment and is to specify what communication between the DEEOIC and the attorney-in-fact (or court-appointed representative) will and/or will not occur. In those situations where the CE or FAB staff person is unsure of the authority granted to a person to serve on behalf of a claimant or of the legal sufficiency of a document, he or she may consult with the Policy Branch for guidance.*

- a. *Form EN-20. In any situation where a person other than the specified payee is signing Form EN-20, the CE must submit the documents purporting to grant such power for review by the SOL to ensure that they are valid under the applicable state law.*

*When preparing documents for review by the SOL, the referring CE or staff person is to include as part of the referral package, a routine or terminal memo for review by the SOL (Exhibit 12-2). The referring CE or staff person uploads the memo to OIS and also sends a notification via OIS to the designated NO staff person. Upon receiving the notification in OIS, the NO staff person verifies the information and refers a printed copy of the POA package to SOL. Once SOL processes the POA and returns the copy to the NO staff person, the NO staff person bronzes the Solicitor's response into OIS, indexing the document(s) as Category "Adjudication Documents." The Subject is "SOL opinion." The Description is "POA review memo from SOL for (payee name)." The document is to be left in an Unreviewed status in OIS for identification by the assigned CE. The CE will also update ECS with the OIS Document Identification Number of the Solicitor's response verifying that someone is permitted to sign the EN-20 on behalf of a claimant.*

It has been updated in v7.0 to:

5. *Authority of an Attorney-in-Fact or Legal Conservator/Guardian.* *A power of attorney (POA) is a legal authorization that gives a designated person, named as an agent or attorney-in-fact, the power to act for the claimant with respect to the subjects described in the POA. There are other types of legal designations that permit an individual to act in the name of the claimant including conservators or guardianships. In any of these situations, a written legal instrument must exist that grants legal authority*

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*for someone to act on behalf of the claimant. The written instrument will include language that describes the specific authorities granted to the attorney-in-fact to act on behalf of another and can be different from one situation to another. An attorney-in-fact may possess broad or limited authority to make decisions about the claimant's property, finances, investments, or medical care. In some instances, the authority conveyed in a legal instrument identifying an attorney-in-fact may only be effective when the claimant is determined to be incapacitated and unable to care for himself or herself in a particular way as set out in the instrument. In other situations, the agent or attorney-in-fact may be required to sign documents for the claimant using specified language.*

*To maintain situational awareness of individuals named as attorneys-in-fact and their permitted authority, DEEOIC must document a CE's review of submitted legal instruments that allow an attorney-in-fact or other designated individuals to act on behalf of a claimant. The assigned CE will perform such assessments and is responsible for preparing an attorney-in-fact memorandum to file (Exhibit 12.2) that describes the extent of authority one or more attorneys-in-fact have to act on behalf of a claimant. With the receipt of subsequent submissions of legal instruments relating to an attorney-in-fact designation, the CE is to conduct a review to determine if a supplemental attorney-in-fact memorandum is required that updates the status of individuals with a capacity to act on behalf of a claimant.*

*c. When reviewing a legal instrument that communicates an authority for someone to act on behalf of a claimant, the CE conducts a comprehensive review of the case file to determine whether an attorney-in-fact review memorandum already exists. This review will occur upon receipt of a legal instrument that communicates that an individual has some level of authority to act on behalf of a claimant. The CE also needs to assess any newly transferred cases with pending adjudication actions to identify properly any individual that may serve as an attorney-in-fact for a claimant. If a HR or MBE receives a legal instrument relating to the naming of an attorney-in-fact during the course of their case adjudication duties, the HR or MBE is to notify the assigned CE in OIS that a document has been received requiring attorney-in-fact review.*

*(3) Should the CE ascertain that an existing attorney-in-fact memorandum to file exists that describes accurately the individual's ability to act on behalf of the claimant, the CE ensures the incoming legal instrument is categorized in OIS as reviewed complete and indexed properly.*

*(4) In those situations where the CE determines that no prior attorney-in-fact memorandum is contained in the case file record, or if information identified by the CE requires an update to a previously completed attorney-in-fact file memorandum, the CE will draft an additional memorandum to file. The memorandum is to identify the name and contact information (if available) of any named attorney-in-fact possessing authority to act on behalf of a claimant. Additionally, for each named attorney-in-fact, the CE will describe concisely the extent of authority each attorney-in-fact has to serve on behalf of the claimant.*

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*In most instances, the CE will find that the attorney-in-fact either has broad authority to act on behalf of the claimant, or that their authority is limited in some manner to certain functions such as medical decision-making. Once the memorandum is completed, the CE is to upload a signed, dated copy of the memorandum to OIS that the CE is to index as “Other Documents, POA.” In the document index note field, the CE includes a standard phrase, “POA Scope of Authority.”*

*An attorney-in-fact with authority to act on behalf of a claimant is not necessarily the equivalent of a properly designated AR and might not be entitled to case file copies. In those situations, even with the identification of an attorney-in-fact, the only individuals entitled to engage with DEEOIC for matters relating to claim adjudication may be the claimant or his or her designated AR. An exception exists for a claimant with an attorney-in-fact who has broad authority to act on behalf of the claimant in connection with his or her litigation, property, or with claims for government benefits. Under that scenario, the attorney-in-fact should be considered the designated AR and will be the primary point of contact for any claim adjudication business and will be entitled to any and all aspects of the case file as if he or she were the claimant.*

- (3) *When the CE determines that the legal authority of a person to act on behalf of a claimant is limited to a particular function that does not allow for engagement on the DEEOIC claim, he or she sends a letter to the claimant. The letter is to communicate to the claimant the scope of authority the attorney-in-fact has to interact with DEEOIC. If the claimant disagrees with the CE’s interpretation of the attorney-in-fact authority to serve on their behalf, the CE will need to decide if further review is required including a referral to the Policy Branch for evaluation.*

- d. *Unless a POA exists that grants authority to an attorney-in-fact when the claimant is incapacitated and cannot handle their own affairs, the claimant retains the right to name a designated AR. An exception exists when either a guardian or conservator has been granted broad authority to act on behalf of the claimant due to the claimant’s incapacitation to handle his or her own affairs by a court of competent probate jurisdiction. In these situations, the case file must contain a copy of the court order confirming the claimant’s incapacitation which must also name a specific person to act on his or her behalf. The CE must determine if the guardian or conservator has the authority to make ALL decisions on behalf of, and act completely, in the stead of the claimant. In instances where the CE is unable to make that determination, the CE refers the matter to the Policy Branch for potential consultation with SOL. If it is determined the guardian or conservator possesses broad authority to act on behalf of an incapacitated claimant, then the guardian or conservator possesses the sole authority to designate another person as the AR to assist with claims adjudication functions. Any communications thereafter would be sent to that guardian or conservator and the designated AR (if any).*

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- c. *In any situation where a person other than the specified payee is signing the Form EN-20, the CE or a person designated by the district office to complete the referral must submit the documents purporting to grant such power for review by the SOL to ensure that they are valid under the applicable state law. The referrer prepares the POA referral package for SOL review. The referrer is to include in the referral package a completed Power of Attorney Memo to SOL (Exhibit 12-3). In addition to the Memo, the referrer is to include, a fully completed and signed EN-20, and a complete copy of the legal documents SOL must evaluate for legal sufficiency.*

*The referrer should consolidate all documents into a single PDF and image the document into OIS. The referral package is indexed as Category: Adjudication Documents, Subject: SOL Opinion, Description: POA for SOL review. The document status is “Review Complete” in OIS. Notification in OIS is not needed.*

*The referrer must then send an email to zzOWCP-POA-PROCESSING@dol.gov confirming the POA referral. The referrer will attach the same image of the POA uploaded to OIS to the email and the email subject line should state clearly that the referral is Routine or Terminal. The referrer sets a reminder in ECS for follow-up after seven calendar days.*

*Time Frame: Within one hour of receipt for terminal claimants, the Policy Branch will send a reply to all parties in the email, advising of the receipt of the POA and referral to SOL. Routine referrals require an email reply within 48 hours.*

*SOL will process the POA referral and email a copy of the opinion/decision to the appropriate parties. SOL will use the same email address as listed above (zzOWCP-POA-PROCESSING@dol.gov) to submit a copy of the completed referral. Upon receipt, the appropriate designee will scan and bronze the SOL response into OIS, indexing the document as Category: Adjudication Documents, Subject: SOL opinion, and Description: POA review memo from SOL for (payee name). The document status is “Unreviewed” in OIS.*

*The CE will review the document, mark as reviewed complete, and update ECS with the OIS Document Identification Number of the Solicitor’s response verifying that someone is permitted to sign the EN-20 on behalf of a claimant.*

- **Chapter 14 – Establishing Special Exposure Cohort Status**

- Exhibit 14-1 has been updated to include EEOICPA Circular No. 21-03, Savannah River Site (SRS) Special Exposure Cohort (SEC) Class designation between October 1, 1972, and December 31, 1990.