From: Loren Lewis
To: Steven.Markowitz; Terrie Barrie; einvlleger`; Jason Jones; DOL Energy Advisory Board Information
Subject: Public Comment ABTSWH Meeting April 22 - 23, 2021.
Date: Friday, April 23, 2021 3:26:48 PM
Attachments: 6MWT- ATS statement.pdf
6MWT Distance Conversion Table .pdf
Aerobic exercise capacity in COPD patients with a [Respir Med 2010] - PubMed - NCBI.htm
Appendix G Modified Borg Dyspnea S E0BE89914046E.pdf
Arm Crank Ergometer is Reliable and Valid for Measuring Aero... The Journal of Strength & Conditioning Research.html
compendium-of-physical-activities.pdf
Discrepancies between PFT and exercise tests.docx

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Dr. Markowitz:

I'm sorry that I was not able to participate in this meeting. I had heard about it and was told that I was going to be informed ahead of time so that I could participate. But I was not apparently invited. As an interested and functional party, I would like to provide some input regarding impairment ratings and specifically respiratory impairments. I have been doing these since about 2008 within the DOL/DEEOIC system. I have completed a total of nearly 1300 impairment evaluations and reports, and approximately 500 of these have been completed within the last year.

Over the last year, the DEEOIC, in various successive forms have literally "harassed" me with ongoing unfounded and unsubstantiated "remands" of my reports, even though every decision point and every step I document are clearly and explicitly linked to specific directions and instruction in *The Guides*. None of the rationale has been at all valid, but it has taken me an inordinate amount of time to counter-argue their baseless claims. The biggest issue has been that they are NOT following the 5th Edition AMA Guides (*The Guides*), in many respects even though this is the required reference, both in their policies and as mentioned in their authorization letters. However, they seem to think this applies to the evaluation for and preparing of an impairment report, but does not seem apply to their internal processes of reviews. They seem to make up things as they go along. If they know better, and they should, and know that these have been inconsistent with *The Guides*, and they should, then it is possible that this is also fraudulent. If they don't know that their positions have been unsupportable, then I would question why they are not better trained and why they don't really know *The Guides*, when they are tasked with managing a program that is so tied to this reference. It really has been shameful how they have been adjudicating this program, and the knowledge base from where they seem to come.

A big issue has been that NONE of the CMCs nor the Medical Director consider exercise tolerance for a respiratory system impairment. They have never considered this as far as I have seen. Most other physicians also no longer consider this. Some have in the past but the Medical Director pretty much shut this down with his own personal opinion, contrary to the explicit instructions in *The Guides*. I have resisted this and was finally able to get an evaluation and opinion by the Policy Branch in a Memorandum in December 2020, by Mr. Charles Bogino, Policy Analyst, who said that it is appropriate to consider exercise capacity. He also said that *The Guides* does NOT list any specific standards for completing exercise testing and that a 6-Minute Walk Test is not prohibited and is appropriate for measuring exercise capacity, from a policy perspective. I have read some

information provided so far by the Advisory Board and wanted to express an opinion that I think is important. I am generally a "purist" and feel that if *The AMA Guides* is the preferred and required reference, policies and practices should go by that. If the DEEOIC wants to change the standard, I'm sure they can do that, but it should be codified in their regulations. So, it is important that whatever the Advisory Board recommends, it should not be based on another personal opinion, but it should be based on the actual language, instructions, and directions, including listed rating criteria actually found in *The Guides*. Table 5-12 lists VO2max as one of the listed rating criteria, on the same status as FVC, FEV1 and Dco. The Medical Director and the CMCs (consistently) have no basis for excluding and ignoring that. But they do, consistently. This is flat out wrong and incorrect. One has to simply read the text. But this has been a basis for many of the remands of my reports. Then there have also been criticisms of use of a 6-Minute Walk Test. You referred to one article that discussed this to a limited extent, but it really did not provide the standards for completing a 6-MWT, which have been published by the American Thoracic Society, who developed this exercise modality in the first place. A better reference, which has all of their recommendations for valid testing, is found at: https://www.thoracic.org/statements/resources/pfet/sixminute.pdf I have also attached it.

American Thoracic Society

American Thoracic Society Am J Respir Crit Care Med Vol 166. pp 111–117, 2002 DOI: 10.1164/rccm.166/1/111 Internet address: www.atsjournals.org

www.thoracic.org

My recommendation is this: Rather than saying that one method is "preferred over another", it is better to follow Mr. Bogino's pattern, simply saying that a 6-MWT is an acceptable method of testing exercise capacity and that it is not prohibited in the language in *The Guides*. An appropriate VO2max result is obtained in METs and mL/kg/min, and L/min can be calculated by multiplying by the individual's weight. As you point out, there is adequate validity for a 6-MWT, based on research. *The Guides* does NOT support that there is a "preferred" exercise method and that would end up being another personal opinion. The DEEOIC likes to find such things and then tries to hold onto them, AND THEY EVOLVE over time. It is much better to keep them tied to the true language that is actually in *The Guides*. I strongly encourage you to stick with this guidance and refer to the language of the required reference, The 5th Edition *Guides* as the basis for these recommendations. I think it would be OK, however, to refer to the ATS standards as the standards for a 6-MWT, although their statement about this is also not absolute. They discuss their standards for the testing as "recommendations" and "guidelines" rather than specific requirements. But they developed the test and should be able to set the standards. However, if another testing format is used, the standards are probably best applied by the author of the testing protocol The American College of Sports Medicine has also published a chart that applies the formula for 6-MWT to distances walked. I think this is the formula to which I think you referred but this chart has pre-calculated the METs values by distance walked. I have attached that as a reference.

Also, the American College of Sports Medicine has undergone considerable scientific testing and research to develop and publish the "Compendium of Physical Activities". They have compared normal day-to-day activities to exercise testing and have determined METs levels for these activities. This system has been consistently updated. I would prefer to do at least a 6-MWT but this should also be an option one could consider. I am also working on a desktop handcrank based ergometry test and am trying to develop a sufficient research and clinical basis for this (I.E. using a Monarch 881E Rehab Trainer, for instance). This would be equivalent to doing a bicycle ergometry test, but I am looking for a protocol for this. Some claimants have significant exertional limitations but cannot even effectively complete a 6-MWT. If it can be tested appropriately, it should be considered. With almost all of these claimants with respiratory disease, their primary impairment is in their functional ability. There are very good reasons, research supported that they can have a normal PFT but very low exertional capacity. I provided a statement of the research I have found on this topic. The DEEOIC in their seemingly "biased" system wants to exclude consideration of that, almost altogether, even though it is a listed rating criterion. I am just trying to find valid methods for testing this, in all circumstances, so that this is not excluded from consideration because of "lack of a test".

It is also important for you to understand that CPET (treadmill or bicycle ergometry) is generally NOT available in the TriCities, Washington or the greater Las Vegas areas, where I do most of my rating evaluations. For many years, we had a good source in the TriCities that was doing them. But when COVID hit in March 2020, they stopped doing them altogether and there are no other hospitals or clinics in the TriCities or in Western Washington that are doing these. We have occasional claimants in Western Washington and we are sometimes able to find a resource to do them but it is usually difficult. In Las Vegas, prior to COVID, we had an agreement set up with University Medical Center, the only place we could find who would do exercise tests, but they also cut this off with the onset of COVID. For about 5 months we could not get any testing, even PFTs, as every medical facility was shut down except for emergencies and this was not considered to be such. Since about October 2020, we have been able to get PFTs. There is only one facility that will do a bicycle ergometry test but they will not bill DEEOIC under the claimant's white card and they require cash payment up front. Another consideration is that there is increased risk because of COVID with these claimants, all of whom have significant respiratory disease. Exposing them to "hoses and tubes" could be considered prohibitive even if these are disposable. It can't be avoided for a PFT but there is alternate testing for exercise. This is probably part of the reason for the decrease in access to this testing modality. So, with both areas of the country, we have had to use 6-Minute Walk Tests as the only available exercise test. But please consider that this test generally, has very limited availability, pretty much across the country, as we also have difficulty getting this testing for occasional outlying impairment evaluations. The other physicians doing impairments are not finding or reporting this because they are simply not relying on this measurement in the first place. I would venture that I am one of only a few who are appropriately looking at this, only because I have been willing to stand up to the Medical Director's biased and incorrect requirements, which have only been based on his personal belief system and agenda, and inconsistent with *The Guides*.

I am happy to discuss all of this further as needed.

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