Recommendation # 8 from October 2016

The original Board recommendation is:

> *"We recommend that the entire case file should be made available to both the industrial hygienists and the contract medical consultants when a referral is made to either, and not be restricted to the information that the claims examiner believes is relevant. The claims examiner should map the file to indicate where relevant information is believed to be."*

The Department of Labor's response was to reject the recommendation for the following reasons:

1. It is inappropriate and inefficient.
2. The current claims evaluation process relies on the CEs as the finders of fact, which would be undermined if the Industrial Hygienist and CMC develop or substitute their own facts.
3. Claimants submit voluminous amounts of medical information, not all of which is pertinent to the claim.
4. When a claims examiner refers a case to an IH or CMC, they are seeking guidance on a particular set of circumstances from which specific questions are derived.
5. It is the claims examiners' responsibility to determine which questions are asked.
6. The contractors doing the work do not want to sift through all of the information.

First, the Board would like to point out that the Board is unanimous in this recommendation. Specifically the industrial hygienists and the physicians all indicated that the professional standard, which they apply to the maximum extent possible, is to receive and review all available medical and exposure records in conducting reviews and expressing opinions about the work-relatedness of health conditions of individuals.

Second, we respond to each reason presented by the Agency in its response:

Issues 1 and 3: are easily resolved with a case index or case map. The contractor can review the CE's findings of accepted facts and then review the case index to see if there is any other information they wish to review. The board strongly recommends that the agency develop a system by which all case files are provided to CE, IH and CMC in searchable pdf format to improve searching efficiency.

Issue 2: While the CE's are well trained to extract information based on agency protocol, they are not experts in IH or occupational medicine and may sometimes not recognize important links between seemingly unrelated parts of a case. We do not believe the agency wishes their experts to form professional opinions based on incomplete or inaccurate information. The entire reason for referring to an expert is that their expertise augments what is known by the CE. Denial of a claim based on CE misjudgment about the relevance of medical or exposure information would be unfair to claimants.

Issue 4 and 5: These are essentially the same issue. It would be inappropriate for the IH or CMC to render an opinion on a specific question when they are not permitted to review documents that were not provided to them but are pertinent to the claim. To do so creates "tunnel vision" on the part of the expert and a faulty opinion may be the result. Again, this is unjust to the claimant.

Issue 6: It should be noted that these same contractors provide expert medical opinions to other federal agencies where they are required to receive the entire claims folder. It should be the responsibility of the IH or CMC to determine if the statement of accepted facts is complete and accurate enough for them to render an opinion, or if they need to review additional information in the

claims folder.