

NIOSH Comments on Mandatory Participation in the Coal Workers' Health Surveillance Program, Confidentiality Issues, and Potential Special Protections

Mandatory Participation: Medical surveillance is an important tool for disease prevention. Identifying sentinel cases can motivate actions to improve work conditions and better protect other workers. Also, early disease identification can lead to actions to reduce or eliminate dust exposure for the affected individual, hopefully improving his or her health outcome. Thus, on the surface, mandatory participation might seem like a positive step. However, the situation is more complex and there would be significant issues that would need to be addressed before instituting mandatory participation in the Coal Workers' Health Surveillance Program.

Steps would need to be taken to ensure that reduction of dust exposure, rather than medical screening, remains the first concern. The most effective means for eliminating coal workers' pneumoconiosis (CWP) is preventing dust exposure. Simply identifying workers who already have disease does not address this root issue. Furthermore, removing workers who already have disease from exposure will not fully prevent disease progression, so some individuals would still experience symptomatic disease. Thus, the primary focus in prevention should be to reduce dust exposure, not screen for disease after the fact.

There would also need to be a full understanding of how any mandatory federal x-ray program would impact state workers' compensation systems. For example, it has been our impression in at least one state that miners are reluctant to participate in surveillance and participation rates are low because participation might adversely impact on the ability to receive compensation for CWP. A miner may be required to file for compensation within a certain period or lose the right to file based on an x-ray showing some disease and be paid according to the level of disease shown at that time even though the disease will often progress.

In addition, any program would have to take into consideration the ability of miners to opt out in certain circumstances. For example, there are female miners in their child bearing years. Such miners might want to opt out of x-ray screening out of concern for adverse reproductive outcomes. Even a "mandatory" surveillance program would need to make allowances for such situations by providing parameters for miners to opt out of having x-rays.

In addition to these issues, any mandatory surveillance program should also address potential interventions that may be needed as a result of the x-ray program. For many coal miners, work in the mining industry provides the best and sometimes the only option for employment in their localities. Mandatory surveillance would ideally need to be paired with programs to help miners with disease remain in the work force and maintain their financial status.

A final concern is that mandating participation in x-ray surveillance would result in a marked increase in the human and financial cost of the coal workers' x-ray surveillance program. Significant additional resources would be needed to take on a project of this magnitude.

Thus, it is not entirely clear that mandating participation in surveillance by miners is an optimal approach for preventing CWP. Furthermore, there would be significant

issues and concerns about this approach. Also, additional interventions would need to be undertaken to mitigate negative impacts of mandatory surveillance.

Confidentiality Issues: The present Act requires the mine operator to pay for surveillance chest films. This leads to the mine operator having a contract relationship with the x ray facility performing chest films. Depending on the billing information provided, mine operators often know which miners have undergone x-ray screening. This leads to concerns about confidentiality, especially in small work forces.

Another area of potential concern is leak of information from facilities performing x-rays, especially in small communities.

A known loss of confidentiality occurs when affected miners exert their rights for transfer to low dust jobs. This necessitates communication of their condition to mine operators. Fear of consequences may be one reason for the relatively low number of miners entitled to transfer rights who take advantage of them.

Potential Special Protections: Given that a major concern for confidentiality in the current program is the financial and contractual relationship between mine operators and x-ray facilities, measures should be taken to better separate these parties. Perhaps mine operators could pay into a fund, with the amount based on number of miners employed. The fund operator could then contract with x-ray facilities, removing the direct link to the mine operator.