

**DEPARTMENT OF LABOR****Office of Workers' Compensation Programs****20 CFR Part 725**

RIN 1240-AA10

**Black Lung Benefits Act: Disclosure of Medical Evidence and Payment of Benefits; Technical Amendment****AGENCY:** Office of Workers' Compensation Programs, Labor.**ACTION:** Final rule.

**SUMMARY:** The Office of Workers' Compensation Programs is making a technical amendment to its regulation on disclosure of medical information to reflect the Office of Management and Budget's approval under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-20, of the information collection requirements contained in that regulation.

**DATES:** This rule is effective May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Michael Chance, Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Suite N-3520, Washington, DC 20210. Telephone: 1-800-347-2502. This is a toll-free number. TTY/TDD callers may dial toll-free 1-800-877-8339 for further information.

**SUPPLEMENTARY INFORMATION:****I. Background of This Rulemaking**

On April 26, 2016, OWCP published a final rule, titled Black Lung Benefits Act: Disclosure of Medical Evidence and Payment of Benefits, to address certain procedural issues that had arisen in claim adjudications and other technical issues. 81 FR 24464 (April 26, 2016). Section 725.413 requires parties to exchange certain medical information, and therefore could be considered a collection of information within the meaning of the PRA. Federal agencies may not conduct or sponsor a collection of information, and the public is not required to respond to a collection of information, unless it is approved by the Office of Management and Budget (OMB) and displays a valid OMB control number. See 5 CFR 1320.5(a), (b), 1320.6. Accordingly, the Department submitted an Information Collection Request (ICR) to OMB for approval when it proposed the rule. See ICR Reference Number 201504-1240-002. The notice of proposed rulemaking specifically invited comments regarding

the information collection and notified the public of their opportunity to file comments with both OMB and the Department. 80 FR 23749 (April 29, 2015). On July 24, 2015, OMB concluded its review of the ICR by asking the Department to submit another ICR at the final rule stage after considering any public comments regarding the information collection requirements in the rule.

The Department received comments on the substance of proposed § 725.413; those comments are fully addressed in the final rule. 81 FR 24469-74. The Department received no comments about the information collection burdens. The Department submitted an ICR to OMB for the information collection in the final rule on March 16, 2016, see ICR Reference Number 201511-1240-003, and specified in the final rule that it would publish a notice in the **Federal Register** to announce the result of OMB's review. 81 FR 24477. On May 3, 2016, OMB approved the Department's information collection request under Control Number 1240-0054, thus giving effect to the information collection requirements contained in the final rule. OMB authorization for this information collection currently expires on May 31, 2019. The Department is making this technical amendment to comply with the notice requirements of 5 CFR 1320.5(b).

**II. Statutory Authority**

Sections 411(b), 422(a), and 426(a) of the Black Lung Benefits Act (30 U.S.C. 921(b), 932(a), and 936(a)) authorize the Secretary of Labor to prescribe rules and regulations necessary for its administration and enforcement.

**III. Rulemaking Analyses***Administrative Procedure Act*

Section 553(b)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3), provides that an agency is not required to publish a notice of proposed rulemaking in the **Federal Register** and solicit public comments when the agency has good cause to find that doing so would be "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3). The Department has determined that publishing a separate notice of proposed rulemaking for this technical amendment to 20 CFR 725.413 is unnecessary. The information collection requirements whose approval this technical amendment announces were previously published in the April 29, 2015, notice of proposed rulemaking. 80 FR 23749. The

Department invited public comment on both the substance of the regulatory revisions and the information collection burden they may impose. *Id.* OMB approved this information collection after consideration of the comments received. Thus, publishing an additional notice of proposed rulemaking for this collection would be duplicative and is unnecessary.

Section 553(d) of the APA, 5 U.S.C. 553(d), provides that substantive rules should take effect not less than 30 days after the date they are published in the **Federal Register** unless "otherwise provided by the agency for good cause found[.]" 5 U.S.C. 553(d)(3). This technical amendment does not change the substance of § 725.413 and instead merely confirms that OMB has approved the information collection contained in that regulation. For this reason, the Department finds good cause to make this technical amendment effective on the same date as the final rule, May 26, 2016. 81 FR 24465.

*Regulatory Flexibility Act*

This rule is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it is not subject to the APA's proposed rulemaking requirements.

*Unfunded Mandates Reform Act*

This rule is not subject to sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA, 2 U.S.C. 1501 *et seq.*) because it is not subject to the APA's proposed rulemaking requirements. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of the UMRA.

*Paperwork Reduction Act*

This rule announces OMB's approval of the information collection contained in the final rule published on April 26, 2016, at 81 FR 24464. It does not impose any new information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*Executive Order 12866*

This rule is not a "significant regulatory action" and is therefore not subject to review by OMB under Executive Order 12866 (58 FR 51735).

*Executive Order 13132 (Federalism)*

The Department has reviewed this rule in accordance with Executive Order 13132 (64 FR 43255) regarding federalism, and has determined that it does not have "federalism

implications.” The rule will not “have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

*Executive Order 12988 (Civil Justice Reform)*

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform (61 FR 4729), to minimize litigation, eliminate ambiguity, and reduce burden.

#### List of Subjects in 20 CFR Part 725

Administrative practice and procedure, Black lung benefits, Claims, Coal miners' entitlement to benefits, Health care, Reporting and recordkeeping requirements, Survivors' entitlement to benefits, Total disability due to pneumoconiosis, Workers' compensation.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 725 as follows:

#### PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

■ 1. The authority citation for part 725 continues to read as follows:

**Authority:** 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174; 30 U.S.C. 901 *et seq.*, 902(f), 934, 936; 33 U.S.C. 901 *et seq.*; 42 U.S.C. 405; Secretary's Order 10–2009, 74 FR 58834.

■ 2. Add a parenthetical statement to § 725.413 to read as follows:

#### § 725.413 Disclosure of medical information.

\* \* \* \* \*

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 1240–0054 with an expiration date of May 31, 2019.)

Signed at Washington, DC, this 12th day of May, 2016.

**Leonard J. Howie, III,**

*Director, Office of Workers' Compensation Programs.*

[FR Doc. 2016–11840 Filed 5–19–16; 8:45 am]

**BILLING CODE 4510–CR–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1904 and 1902

[Docket No. OSHA–2013–0023]

RIN 1218–AC49

#### Improve Tracking of Workplace Injuries and Illnesses; Correction

**AGENCY:** Occupational Safety and Health Administration (OSHA), DOL.

**ACTION:** Final rule; correction.

**SUMMARY:** OSHA published in the *Federal Register* of May 12, 2016, a final rule revising its Recording and Reporting Occupational Injuries and Illnesses Regulation. In the rule, a paragraph was inadvertently removed. This document reinserts that paragraph.

**DATES:** *Effective:* August 10, 2016.

**FOR FURTHER INFORMATION CONTACT:** For press inquiries: Frank Meilinger, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

For general and technical information: Miriam Schoenbaum, Office of Statistical Analysis, Room N–3507, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1841; email: [schoenbaum.miriam@dol.gov](mailto:schoenbaum.miriam@dol.gov).

**SUPPLEMENTARY INFORMATION:** OSHA published in the *Federal Register* of May 12, 2016, a final rule revising its Recording and Reporting Occupational Injuries and Illnesses regulation (92 FR 29624).

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Sections 8 and 24 of the Occupational Safety and Health Act (29 U.S.C. 657, 673), Section 553 of the Administrative Procedure Act (5 U.S.C. 553), and Secretary of Labor's Order No. 41–2012 (77 FR 3912 (Jan. 25, 2012)).

#### Need for Correction

Inadvertently § 1904.35(b)(2) was designated as reserved. This document reinserts that paragraph.

In FR Rule Doc. No. 2016–10443 beginning on page 29624 in the issue of May 12, 2016, make the following correction:

On page 29692, in the first column, after the second paragraph, remove “(2) [Reserved].” and add the following in its place:

“(2) *Do I have to give my employees and their representatives access to the*

*OSHA injury and illness records?* Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

(i) *Who is an authorized employee representative?* An authorized employee representative is an authorized collective bargaining agent of employees.

(ii) *Who is a “personal representative” of an employee or former employee?* A personal representative is:

(A) Any person that the employee or former employee designates as such, in writing; or

(B) The legal representative of a deceased or legally incapacitated employee or former employee.

(iii) *If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it?* When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(iv) *May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative?* No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain “privacy concern cases,” as specified in § 1904.29(b)(6) through (9).

(v) *If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?* (A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee