

WAC 296-850-155 Medical surveillance. (1) General.

(a) The employer must make medical surveillance required by this section available at no cost to the employee, and at a reasonable time and place, to each employee:

(i) Who is or is reasonably expected to be exposed at or above the action level for more than 30 days per year;

(ii) Who shows signs or symptoms of CBD or other beryllium-related health effects;

(iii) Who is exposed to beryllium during an emergency; or

(iv) Whose most recent written medical opinion required by this section recommends periodic medical surveillance.

(b) The employer must ensure that all medical examinations and procedures required by this standard are performed by, or under the direction of, a licensed physician.

(c) When requested by an employee who provides the employer with an abnormal or borderline finding for a single blood BeLPT or two borderline blood BeLPT, the employer must arrange for medical examinations and procedures to be performed at a CBD diagnostic center that is mutually agreed upon by the employer and the employee, or at the CBD diagnostic center requested by the employee, when the center is recognized by the department as a center for research and clinical assessment of chemically related illness (see RCW 51.32.360).

(2) **Frequency.** The employer must provide a medical examination:

(a) Within 30 days after determining that:

(i) An employee meets the criteria of subsection (1)(a)(i) of this section, unless the employee has received a medical examination, provided in accordance with this standard, within the last two years; or

(ii) An employee meets the criteria of subsection (1)(a)(ii) of this section.

(b) At least every two years thereafter for each employee who continues to meet the criteria of subsection (1)(a)(i), (ii), or (iv) of this section.

(c) At the termination of employment for each employee who meets any of the criteria of subsection (1)(a) of this section at the time the employee's employment terminates, unless an examination has been provided in accordance with this standard during the six months prior to the date of termination. Each employee who meets the criteria of subsection (1)(a)(iii) of this section and who has not received an examination since exposure to beryllium during the emergency must be provided an examination at the time the employee's employment terminates.

(d) For an employee who meets the criteria of subsection (1)(a)(iii) of this section:

(i) If that employee has not received a medical examination within the previous two years pursuant to subsection (1)(a) of this section, then within 30 days after the employee meets the criteria of subsection (1)(a)(iii) of this section; or

(ii) If that employee has received a medical examination within the previous two years pursuant to subsection (1)(a) of this section, then at least one year but no more than two years after the employee meets the criteria of subsection (1)(a)(iii) of this section.

(3) **Contents of examination.**

(a) The employer must ensure that the PLHCP conducting the examination advises the employee of the risks and benefits of participating in the medical surveillance program and the employee's right to opt out of any or all parts of the medical examination.

(b) The employer must ensure that the employee is offered a medical examination that includes:

(i) A medical and work history, with emphasis on past and present airborne exposure to or dermal contact with beryllium, smoking history, and any history of respiratory system dysfunction;

(ii) A physical examination with emphasis on the respiratory system;

(iii) A physical examination for skin rashes;

(iv) Pulmonary function tests, performed in accordance with the guidelines established by the American Thoracic Society including forced vital capacity (FVC) and forced expiratory volume in one second (FEV1);

(v) A standardized BeLPT or equivalent test, upon the first examination and at least every two years thereafter, unless the employee is confirmed positive. If the results of the BeLPT are other than normal, follow-up BeLPT testing must be offered within 30 days, unless the employee has been confirmed positive or unless the employee requests a medical examination as according to subsection (1)(c) of this section. Samples must be analyzed in a laboratory certified under the College of American Pathologists/Clinical Laboratory Improvement Amendments (CLIA) guidelines to perform the BeLPT;

(vi) A low dose computed tomography (LDCT) scan, when recommended by the PLHCP after considering the employee's history of exposure to beryllium along with other risk factors, such as smoking history, family medical history, sex, age, and presence of existing lung disease; and

(vii) Any other test deemed appropriate by the PLHCP.

(4) **Information provided to the PLHCP.** The employer must ensure that the examining PLHCP (and the evaluating CBD diagnostic center, if an evaluation is required under subsection (7) of this section) has a copy of this rule and must provide the following information, if known:

(a) A description of the employee's former and current duties that relate to the employee's airborne exposure to and dermal contact with beryllium;

(b) The employee's former and current levels of airborne exposure;

(c) A description of any personal protective clothing and equipment, including respirators, used by the employee, including when and for how long the employee has used that personal protective clothing and equipment; and

(d) Information from records of employment-related medical examinations previously provided to the employee, currently within the control of the employer, after obtaining written consent from the employee.

(5) **Licensed physician's written medical report for the employee.**

Exception:

When the PLHCP assists the worker in filing a claim under Title 51 RCW, Industrial insurance, the PLHCP does not need to prepare a separate report for the employee if all the information required in this section is entered into the claim record, the report is directly shared with the employee, and the PLHCP explains the results of the examination to the employee. The PLHCP may provide additional reports or notes to make sure the employee understands the results of the examination and recommendations.

The employer must ensure that the employee receives a written medical report from the licensed physician within 45 days of the examination (including any follow-up BeLPT required under subsection (3)(b)(v) of this section) and that the PLHCP explains the results of the examination to the employee. The written medical report must contain:

(a) A statement indicating the results of the medical examination, including the licensed physician's opinion as to whether the employee has:

(i) Any detected medical condition, such as CBD or beryllium sensitization (i.e., the employee is confirmed positive, as defined in WAC 296-850-090), that may place the employee at increased risk from further airborne exposure; and

(ii) Any medical conditions related to airborne exposure that require further evaluation or treatment.

(b) Any recommendations on:

(i) The employee's use of respirators, protective clothing, or equipment; or

(ii) Limitations on the employee's airborne exposure to beryllium.

(c) If the employee is confirmed positive or diagnosed with CBD or if the licensed physician otherwise deems it appropriate, the written report must also contain a referral for an evaluation at a CBD diagnostic center.

(d) If the employee is confirmed positive or diagnosed with CBD, the written report must also contain a recommendation for continued periodic medical surveillance.

(e) If the employee is confirmed positive or diagnosed with CBD, the written report must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in WAC 296-850-160.

(6) Licensed physician's written medical opinion for the employer.

Exception:

When a claim has been initiated the PLHCP does not need to prepare a separate report for the employer if all information required in this section is entered into the claim record. As part of initiating a claim, the employee agrees to share all of the relevant medical records, and the limits on information reported to the employer in this section do not apply.

(a) The employer must obtain a written medical opinion from the licensed physician within 45 days of the medical examination (including any follow-up BeLPT required under subsection (3)(b)(v) of this section). The written medical opinion must contain only the following:

(i) The date of the examination;

(ii) A statement that the examination has met the requirements;

(iii) Any recommended limitations on the employee's use of respirators, protective clothing, or equipment; and

(iv) A statement that the PLHCP has explained the results of the medical examination to the employee, including any tests conducted, any medical conditions related to airborne exposure that require further evaluation or treatment, and any special provisions for use of personal protective clothing or equipment.

(b) If the employee provides written authorization, the written opinion must also contain any recommended limitations on the employee's airborne exposure to beryllium.

(c) If the employee is confirmed positive or diagnosed with CBD or if the licensed physician otherwise deems it appropriate, and the employee provides written authorization, the written opinion must also contain a referral for an evaluation at a CBD diagnostic center.

(d) If the employee is confirmed positive or diagnosed with CBD and the employee provides written authorization, the written opinion must also contain a recommendation for continued periodic medical surveillance.

(e) If the employee is confirmed positive or diagnosed with CBD and the employee provides written authorization, the written opinion

must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in WAC 296-850-160.

(f) The employer must ensure that each employee receives a copy of the written medical opinion described in this subsection within 45 days of any medical examination (including any follow-up BeLPT required under subsection (3)(b)(v) of this section) performed for that employee.

(7) CBD diagnostic center.

(a) The employer must provide an evaluation at no cost to the employee at a CBD diagnostic center that is mutually agreed upon by the employer and the employee, or at the CBD diagnostic center requested by the employee, when the center is recognized by the department as a center for research and clinical assessment of chemically related illness (see RCW 51.32.360). The examination must be scheduled within 30 days, and must occur within a reasonable time, of:

(i) The employer's receipt of a physician's written medical opinion to the employer that recommends referral to a CBD diagnostic center; or

(ii) The employee presenting to the employer a physician's written medical report indicating that the employee has been confirmed positive or diagnosed with CBD, or recommending referral to a CBD diagnostic center.

(b) The employer must ensure that, as part of the evaluation, the employee is offered any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee.

(c) The employer must ensure that the employee receives a written medical report from the CBD diagnostic center that contains all the information required in subsection (5)(a), (b), (c), and (e) of this section and that the PLHCP explains the results of the examination to the employee within 30 days of the examination.

(d) The employer must obtain a written medical opinion from the CBD diagnostic center within 30 days of the medical examination. The written medical opinion must contain only the information in subsection (6)(a) of this section, as applicable, unless the employee provides written authorization to release additional information. If the employee provides written authorization, the written opinion must also contain the information from subsection (6)(b), (d), and (e) of this section, if applicable.

(e) The employer must ensure that each employee receives a copy of the written medical opinion from the CBD diagnostic center described in this subsection within 30 days of any medical examination performed for that employee.

(f) After an employee has received the initial clinical evaluation at a CBD diagnostic center described in (a) of this subsection, the employee may choose to have any subsequent medical examinations for which the employee is eligible under this section performed at a CBD diagnostic center mutually agreed upon by the employer and the employee, or at the CBD diagnostic center requested by the employee, when the center is recognized by the department as a center for research and clinical assessment of chemically related illness (see RCW 51.32.360). The employer must provide such examinations at no cost to the employee.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and OSH Act of 1970, § 18. WSR 23-07-119, § 296-850-155, filed 3/21/23, effective 4/1/23. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 18-17-156, § 296-850-155, filed 8/21/18, effective 12/12/18.]