

[2/7/79-Not Submitted] [CF, O/A 548]

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ID 790062

THE WHITE HOUSE

WASHINGTON

DATE: 07 FEB 79

FOR ACTION: STU ETZENSTAT

JERRY RAFSHOON

PHIL WISE

JODY POWELL

JACK WATSON

FRAN VOORDE

INFO ONLY: THE VICE PRESIDENT

FRANK MOORE (LES FRANCIS)

TIM KRAFT

ANNE WEXLER

SUBJECT: MCINTYRE MEMO RE MANAGEMENT IMPROVEMENT

W
IF - MCE 4/23
will just work
attached no
attached no
Plan. They
do not want
it to go in.
Bea

copy - MCE
my 2/23

- attached

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM FRIDAY 09 FEB 79 +
+++++

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FEB 6 1979

MEMORANDUM FOR THE PRESIDENT

FROM: James T. McIntyre, Jr. *J. McIntyre*

SUBJECT: Management Improvement

Several months ago you approved my recommendation that significant management improvements instituted by this Administration be identified for your personal recognition. This memorandum outlines improvements underway in the Labor Department's Black Lung Benefits Program. Here, a combination of legislative reforms (which you signed into law in March 1977) and substantial attention to the management problems by Ray Marshall is beginning to pay off. For example, 2,000 claims for benefits have been approved since August 1978 -- compared to 6,000 for the 4½ preceding years.

I recommend that you recognize the improvements underway by visiting a recently-opened Black Lung district office in West Virginia. This visit could be structured as a briefing to you on program progress during your Administration, and would be a way to bring these initiatives to public attention. The following factors support this recommendation.

I. BACKGROUND

The Problem

Pneumoconiosis (black lung disease) results from the accumulation of tiny coal dust particles in the lungs. In simple pneumoconiosis the ability of the lung to transfer oxygen to the blood is reduced. Complicated pneumoconiosis involves massive scarring and degeneration of lung tissue. In the complicated stage the disease severely limits physical capacities and can be fatal. Black lung is progressive and latent; its symptoms may not appear until many years after a miner's last exposure to coal dust.

The Black Lung Benefits Program involves an area of workers' compensation traditionally reserved to the States. Thus, Federal intervention implies both state inadequacy and the industry's inability to take care of its problem. Moreover, the

program attempts to define a compensable condition from both the medical and the socio-economic standpoint in minute detail.

You will recall that in July 1977, you authorized a survey of Senate and House offices aimed at identifying those areas of government causing constituents the most problems. The Black Lung program was particularly criticized by respondents for delays in processing claims, unresponsiveness, staff incompetency, and general operational inefficiency. These findings were widely reported and publicized.

Legislative and Program History

In 1969, Congress first acknowledged that state-level workers' compensation programs were inadequate to deal effectively with this occupational disease by enacting Title IV of the Coal Mine Health and Safety Act. The Social Security Administration was given initial responsibility for this program. The program provided monthly cash payments from Federal funds to miners disabled by black lung, and to their survivors. The law also set permissible dust levels in the mines to limit exposure. Compliance with these standards was expected to obviate the need for a permanent black lung program. Therefore, the law provided for full Federal financing of only those claims filed before 1972 and processing of new claims only until 1973. The Labor Department was to administer the Act after January 1, 1973, and require mine operators responsible for the disease to pay the benefits.

Subsequently, the Black Lung Amendments of 1972 were enacted in response to mounting criticism by the public and Congress concerning interpretations of the earlier law. The date that the Labor Department was to assume responsibility was changed to January 1, 1974. These amendments extended Federal responsibility for determining claims, assigning responsibility and paying benefits when no responsible operator could be identified, until 1981; liberalized the definition of total disability; prohibited the denial of benefits solely on the basis of a chest x-ray; and, extended eligibility to miners who worked above the ground.

There were substantial difficulties in administering the 1972 amendments. Changes in medical standards, time limitations on filings, and the requirement to identify a responsible mine operator to pay benefits in accepted claims, created additional paperwork, processing delays, and a flood of adversary proceedings. Thus, rather than correcting the law's original problems, the 1972 amendments complicated them further.

Congress, again responding to the complaints and concerns of the public, enacted the Black Lung Benefits Reform Act of 1977. Through this legislation, entitlement requirements and medical standards were liberalized, the definition of a miner was further expanded, coverage was extended to a greater number of beneficiaries, and the program was made permanent. Finally, the 1977 reforms transferred liability for benefits from the Federal Government to the coal industry, even where responsible mine operators could not be identified, by setting up a trust fund financed by a tax on coal.

Implications of the 1977 Legislation

As a result of the 1977 Amendments, it is estimated that more than 400,000 claims will require processing during the next three years. This includes 67,000 new claims that will be filed with the Labor Department, and 140,000 claims previously filed and denied by Social Security Administration, plus 115,000 claims previously filed with Labor (either pending or previously denied) which must be reviewed. Also, 85,000 beneficiaries of claimants previously approved by the Social Security Administration are expected to file new claims with the Labor Department in order to receive new medical treatment benefits.

II. MANAGEMENT IMPROVEMENTS

Ray Marshall and Assistant Secretary Don Elisburg have given top priority to improving the program's performance and responsiveness. Overall, they have exerted continuous pressure to accelerate claims processing decisions. They have also made progress in developing legislative sanctions against coal mine operators who fail to insure.

A major improvement in the program is the establishment of a decentralized field structure of local Black Lung offices. These will provide on-site service and consultation to new claimants, in addition to processing claims. Seven major District Offices have been established with 33 satellite field stations. Further, 564 new staff positions have all been assigned in the field and 453 of these are four-year appointments that will be phased out to avoid creating a permanent bureaucracy.

The Department paid out \$54 million in benefits over the past 5 years and 45% of that was paid in calendar year 1977 alone. The number and rate of claims determinations and approvals are expected to increase dramatically as recently hired claims examiners become more productive and current medical information

is received from previously denied claimants. Average processing times for initial determinations which took 630 days in 1977 are projected to improve to 360 days in FY 1979, and 180 days in FY 1980. In FY 1979, refilings for medical treatment benefits only are expected to be processed in 180 days.

Other steps taken in the last several months to continue improvements already in progress include:

- Initiation of claims examiner training courses for National and District Office staff and the development of productivity and performance standards;
- Establishment of a medical refilings review unit;
- Establishment of a pre-hearing and a review unit to expedite the adjudicatory process;
- Revision of all forms and procedures to reflect changes of law and new regulations; and
- Installation of a new data processing and retrieval system to handle claims. Approximately 60,000 new claims have been entered into the data base since March 1, 1978.

III. OTHER FACTORS BEARING ON THE RECOMMENDATION

Advantages and Disadvantages of Public Attention

The advantages of a Presidential visit to an Appalachian Black Lung District office are substantial. In the minds of many residents, the Federal presence is often associated only with such endemic disorders as coal strikes, floods, and other hardships. A visit from you would draw positive attention to the region, reinforce your image as a person who cares deeply about the rights and problems of the elderly and the ailing, and fortify your reputation as a tough and aggressive manager striving to increase the efficiency and effectiveness of the government.

As black lung claims are now being approved at a greatly accelerated rate, word has spread that the program is beginning to perform as intended. In addition to Congressional backers of the legislation from the region, you can rightfully share the credit for the relief this program will bring to thousands of disabled miners, their widows and dependents.

On the down side, not everyone is satisfied with the pace of program improvements or, as with any benefits program, the compensation levels and procedures for determining eligibility. Many miners feel that entitlement should be automatic and there could be lingering resentment that the Administration did not join UMWA in supporting an automatic entitlement provision during Congressional consideration of the 1977 reform amendments. Thus, while a hostile reception would not be expected, leaders of some Black Lung Associations or legal assistance groups could possibly see the proposed visit as an opportunity to draw media attention to their concerns.

Site Alternatives

The seven major District Offices are located in Greensburg and Wilkes-Barre, Pennsylvania; Charleston and Parkersburg, West Virginia; Pikeville, Kentucky; Denver, Colorado; and Columbus, Ohio. An eighth office has been opened in Johnstown, Pennsylvania, for the specific purpose of reviewing previously denied claims.

The most feasible location for a visit is Charleston, West Virginia. Since Charleston is the state capitol, the logistics and media requirements should not present the problems that might develop in other District Office locations. Also it is the home state of Senators Byrd and Randolph, both of whom are viewed warmly for the roles they played in enacting the 1977 reform legislation. Governor Jay Rockefeller, of course, chairs the President's Commission on the Coal Industry.

PRESIDENTIAL ACTION:

If you approve the proposed visit, we will work closely with Jerry Rafshoon, Jody Powell, Frank Moore, and others to develop the timing and nature of your involvement.

Approve _____

Disapprove _____

Discuss _____

cc: Ray Marshall

THE WHITE HOUSE
WASHINGTON

One re. Act re Stanley / Mynt leg.

no objection; ~~to~~ climax ok for
now but its too early in process
to be ^{re} recommended a model.

THE WHITE HOUSE
WASHINGTON

Comments from Jerry Rafshoon's Office:

McIntyre Memo Re: Management Improvement--

I do not recommend a visit by the President. We feel a visit by Ray Marshall with the Vice-President would be more appropriate.

Andrus Memo Re: San Antonio Missions--

No Comment

DATE: 07 FEB 79

FOR ACTION: STU EIZENSTAT

JODY POWELL

JERRY RAFSHOON

JACK WATSON

PHIL WISE

FRAN VOORDE

INFO ONLY: THE VICE PRESIDENT

TIM KRAFT

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+++++ +++++ +++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM FRIDAY 09 FEB 79 +

+++++ +++++ +++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. (X) HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

2/8

Rick -
 Phil and I agree that this does not need to go to the President. OMB, on a routine basis, is suppose to be bringing these kinds of things to our attention for possible inclusion on Presidential trips. We will not be proposing a specific trip just for this purpose but will keep it in mind should it work into trip schedules in the months ahead. (I'll advise Jim if you wish.)

fran
fran



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OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FEB 6 1979

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PRESIDENTIAL ACTION:

If you approve the proposed visit, we will work closely with Jerry Rafshoon, Jody Powell, Frank Moore, and others to develop the timing and nature of your involvement.

Approve _____ Disapprove _____ Discuss _____

cc: Ray Marshall

THE WHITE HOUSE

WASHINGTON

February 9, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

JACK WATSON *Jack*

SUBJECT:

McIntyre Memorandum regarding
Management Improvement

I do not recommend that you do this site visit.

Although I appreciate the great improvements that have been made in management of the Black Lung Benefits Program, I believe these gains would be overshadowed by the current controversies in the coal regions over air quality regulations, low-sulphur coal, labor, etc. Ray Marshall and Doug Costle need to be involved in any recommendation of this sort.

I believe that it would be politically unwise for you to attend personally and that a better approach might be to send a Presidential message to each of the new Black Lung district offices.

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MEMORANDUM

THE WHITE HOUSE

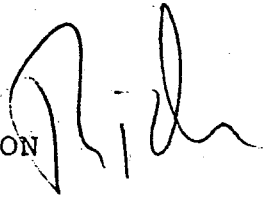
WASHINGTON

7 February 1979

TO:

HUGH CARTER

FROM:

RICK HUTCHESON 

SUBJECT:

Emergency Plan ID Cards

This memo is returned to you for further work. See Jody's comments (attached).

I suggest that you answer Jody's questions before resubmitting for the President's review.

THE WHITE HOUSE

WASHINGTON

Date: 3 February 1979

MEMORANDUM

FOR ACTION:
JORDAN
EIZENSTAT *nc*
LIPSHUTZ *- concur*
POWELL *- attached Threshing*
RAFSHOON
BRZEZINSKI *concur*

FOR INFORMATION:
THE VICE PRESIDENT

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: HUGH CARTER MEMO, "EMERGENCY PLAN ID CARDS"

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**
TIME: 9:00 AM
DAY: TUESDAY
DATE: FEBRUARY 6

ACTION REQUESTED:

Your comments
Other:

STAFF RESPONSE:

I concur. No comment.
Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

February 2, 1979

MEMORANDUM FOR THE PRESIDENT

FROM:

HUGH CARTER *HC*

SUBJECT:

Emergency Plan ID Cards

For the past several months, Joe Mitchell and I have worked closely together to insure that the White House Emergency Plan and the FPA Emergency Plan are properly coordinated. We feel we have made a great deal of progress.

One of our decisions is to issue special ID cards to the key people in each of the emergency plans. (sample attached) We thought it would be best to use the words "by order of the President" and have me, as a member of the White House staff sign them. Before I proceed with this, Bob Lipshutz and I both felt I should have your approval to do so.

Approve _____

Disapprove _____

Date: 3 February 1979

MEMORANDUM

FOR ACTION:

JORDAN
EIZENSTAT
LIPSHUTZ
POWELL
RAFSHOON
BRZEZINSKI

MCINTYRE

FOR INFORMATION:

THE VICE PRESIDENT

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YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 9:00 AM

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DATE: FEBRUARY 6

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

*I'm not sure what their own suggestion
to do. Whatever it is, it seems to
me that the President's signature would
be more effective than one of the kind
help. If there is a need to do it, they should
be well done and look official and important. There
should also
be detailed*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

guidelines on what they can be used to do and
under what circumstances. They should also
be controlled in terms of distribution to avoid
abuse. We don't need a bunch of
pissed-off junior executive type running around
trying to get out of speeding tickets with them.

THE WHITE HOUSE

WASHINGTON

February 2, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: HUGH CARTER *de*

SUBJECT: Emergency Plan ID Cards

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Approve _____

Disapprove _____

THE WHITE HOUSE
WASHINGTON

Date: 3 February 1979

MEMORANDUM

FOR ACTION:

JORDAN
EIZENSTAT
LIPSHUTZ
POWELL
RAFSHOON
BRZEZINSKI

MCINTYRE

FOR INFORMATION:
THE VICE PRESIDENT

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YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 9:00 AM

DAY: TUESDAY

DATE: FEBRUARY 6

ACTION REQUESTED:

Your comments

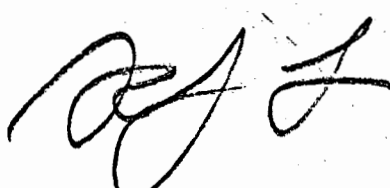
Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

February 5, 1979

MEMORANDUM FOR: RICK HUTCHESON
FROM: CHRISTINE DODSON *dmf*
SUBJECT: Emergency Plan ID Cards

The NSC concurs with Hugh Carter's memo to the President on the authority for the ID cards.