

Marshall Islands Nuclear Claims Tribunal Notice of Regulations: Compensation for Damage to Person

Pursuant to §23(13) of the Marshall Islands Nuclear Claims Tribunal Act 1987, as amended, the Tribunal adopted regulations in August 1991 establishing a list of 25 medical conditions which are irrebuttably presumed to be the result of the Nuclear Testing Program. Those regulations were amended by the Tribunal in January 1994 to add two additional conditions (numbers 26 and 27 below) to the presumed list.

For eligible claimants who were present in the Marshall Islands during the testing program period, the administratively presumed medical conditions and the amounts of compensation for each that will be paid in pro rata annual payments are as follows:

1. Leukemia (other than chronic lymphocytic leukemia)\$125,000
2. Cancer of the thyroid
 - a. if recurrent or requires multiple surgical and/or ablation.....\$75,000
 - b. if non-recurrent or does not require multiple treatment\$50,000
3. Cancer of the breast
 - a. if recurrent or requires mastectomy\$100,000
 - b. if not recurrent or requires lumpectomy\$75,000
4. Cancer of the pharynx\$100,000
5. Cancer of the esophagus\$125,000
6. Cancer of the stomach\$125,000
7. Cancer of the small intestine\$125,000
8. Cancer of the pancreas\$125,000
9. Multiple myeloma\$125,000
10. Lymphomas (except Hodgkin's disease)\$100,000
11. Cancer of the bile ducts\$125,000
12. Cancer of the gall bladder\$125,000
13. Cancer of the liver (except if cirrhosis or hepatitis B is indicated)\$125,000
14. Cancer of the colon (but not cancer of the rectum)\$75,000
15. Cancer of the urinary bladder\$75,000
16. Tumors of the salivary gland
 - a. if malignant\$50,000
 - b. if benign and requiring surgery\$37,500
 - c. if benign and not requiring surgery\$12,500
17. Non-malignant thyroid nodular disease (unless limited to occult nodules)
 - a. if requiring total thyroidectomy\$50,000
 - b. if requiring partial thyroidectomy\$37,500
 - c. if not requiring thyroidectomy\$12,500
18. Cancer of the ovary\$125,000
19. Unexplained hypothyroidism (unless thyroiditis indicated)\$37,500
20. Severe growth retardation due to thyroid damage\$100,000
21. Unexplained bone marrow failure\$125,000
22. Meningioma\$100,000
23. Radiation sickness diagnosed between June 30, 1946 and August 18, 1958, inclusive\$12,500
24. Beta burns diagnosed between June 30, 1946 and August 18, 1958, inclusive\$12,500
25. Severe mental retardation (provided born between May and September 1954, inclusive, and mother was present on Rongelap or Utirik Atolls at any time in March 1954)\$100,000
26. Unexplained hyperparathyroidism\$12,500
27. Tumors of the parathyroid gland
 - a. if malignant\$50,000
 - b. if benign and requiring surgery\$37,500
 - c. if benign and not requiring surgery\$12,500

The regulations adopted by the Tribunal also provide a mechanism and set out applicable standards for (1) the consideration of non-presumed conditions for compensation in individual cases; (2) the periodic evaluation of possible modifications to the list of presumed conditions; (3) the assignment of compensation levels to non-presumed or future presumed medical conditions; and (4) adjustments to the amounts of compensation based on age and prognosis.

To review or obtain copies of the regulations, contact Cathlina J. deBrum, Clerk of the Tribunal, P. O. Box 702, Majuro, MH 96960; telephone (692) 625-3396; facsimile (692) 625-3389.

No awards have been made for any of the genetic effects which have been diagnosed and which may be linked to parental exposure.

No awards have been made for the many documented birth abnormalities or anomalies that have been observed since the testing program began.

No awards have been made for the side effects, intrusions on lifestyles, or inconveniences experienced by the people of the Marshall Islands. For example, Atomic Energy Commission doctors prescribed, on a preventive basis in the 1960s, daily thyroid medication for many of the people of Rongelap and Utirik for the rest of their lives.

No awards have been made for exposure *per se* or for any other emerging effects of radiation that may be found.

And no awards have been made for damage to, loss of, or loss of use of any land or property.

Despite having made no awards in any of these areas, over half of the \$45.75 million available to the Tribunal over the period of the Compact for payment of all types of damage has already been awarded⁵ since the first claims were approved and initial payments were made by the Tribunal in August 1991. Annual pro-rata payments, made every October since 1991, have resulted in actual distributions of \$9.1 million, representing a current cumulative payment of 40% of each award.

Current information leads one to conclude that the extent of the damage caused by exposure to radiation from the testing program, although presumably greater on Bikini, Enewetak, Rongelap and Utirik, was by no means limited to those atolls. The fact is that compensation has been awarded to people from every atoll in the nation (see Attachment 3), suggesting that, as a biological indicator, there was widespread fallout throughout the Marshall Islands.

In summary, the truth about the damaging effects of the United States nuclear testing program on the people and lands of the Marshall Islands will never be fully known. Nevertheless, any assistance which this Committee can provide in obtaining the release of presently declassified information about the testing program or in generating new and additional information through further study of its effects will be greatly appreciated by the Tribunal and the claimants before it.

However, if the experiences of the Nuclear Claims Tribunal in attempting to establish and administer a fair and reasonable program of compensation for damages is an accurate indicator, I believe that it can safely be said that the information already known about the extent of those damages is sufficient to render the provisions of the Section 177 Agreement manifestly inadequate.

⁵ As shown in Attachment 2, compensation in the net amount of \$22.8 million had been awarded to or on behalf of 572 individuals for a total of 676 presumed conditions as of December 31, 1993. A number of individuals have been awarded compensation for more than one presumed condition; most such individuals were on Rongelap or Ailingnae atolls at the time of the Bravo event on March 1, 1954, and have been awarded compensation for the conditions of beta burns, acute radiation sickness and some type of thyroid disorder.