

Employees' Compensation Appeals Board, Labor

§ 501.10

(d) The decision of the Board shall be final upon the expiration of 30 days from the date of the filing of the order, unless the Board shall in its order fix a different period of time or reconsideration by the Board is granted.

§ 501.7 Petition for reconsideration.

(a) *Procedure for filing.* A petition for reconsideration of a decision of the Board may be filed with the Board within 30 days from the date of the order, or, if another period is specified in the order, then prior to the time when the order becomes final. The petition shall state the grounds relied upon, including any matters claimed to have been erroneously decided and shall specify the alleged errors. The petition may be in letter form.

(b) *Answer; procedure for disposition of petitions.* Upon the filing of a petition for reconsideration, each of the other parties to the proceeding may file an answer thereto within such time as may be fixed by the Board. If reconsideration should be granted, reargument upon reasonable notice may be allowed in the discretion of the Board. After reconsideration of a case the Board shall either grant or deny the petition.

§ 501.8 Docket of proceedings; inspection of docket and records.

(a) *Maintenance of docket.* A docket of all proceedings shall be maintained by the Board. Each proceeding shall be assigned a number in chronological order upon the date on which an application for review is received. Each proceeding shall be generally considered in the order in which it is docketed, although for good cause shown the Board may advance the order in which a particular case is to be considered. Correspondence or further applications in connection with any pending case shall refer to the docket number of that case.

(b) *Inspection of docket and records.* The docket of the Board shall be open to public inspection. The Board shall publish its decisions in such form as to be readily available for inspection, and shall allow the public inspection thereof at the permanent location of the Board. Inspection of the papers and documents included in the case record of any proceeding before the Board shall be permitted or denied in accord-

ance with the standards provided in § 1.22 of this title. The Chairman of the Board shall exercise the functions prescribed in 29 CFR 70.74a.

[27 FR 12186, Dec. 8, 1962, as amended at 37 FR 26710, Dec. 15, 1972]

§ 501.9 Regulation of proceedings.

The proceedings shall be conducted under the supervision of the Chairman or Acting Chairman, who shall regulate such matters as the granting of continuances, acceptance of briefs and other procedural matters.

§ 501.10 Number of copies of pleadings and related documents; service; computation of time.

(a) Except as provided in paragraph (b) of this section, any application, pleading, petition, brief or other memorandum shall be filed in duplicate (original and 1 copy) with the Board; the Board shall serve the copy upon the other party.

(b) Instead of filing the duplicate of any such document with the Board, the party submitting it may serve the duplicate or copy directly upon the Director and make a notation to that effect upon the copy filed with the Board.

(c) Any notice or order required under this part to be given or served shall be by certified or registered mail or by personal service.

(d) *Computation of Time.* (1) In computing any period of time prescribed or allowed by these rules or by direction of the Board, the first day counted shall be the day after the event from which the time period begins to run, and the last day for filing shall be included in the computation. If the last day for filing falls on a Saturday, Sunday, or Federal holiday, the first working day thereafter shall be the last day for timely filing. For purposes of computing the time for filing a notice of appeal or a petition for reconsideration, the event which commences the running of the time period shall be construed as occurring on the date the relevant decision is issued, and not the date the decision is actually received.

(2) Whenever a paper is served on the Board by mail, paragraph (d)(1) of this section will be deemed complied with if the envelope containing the paper is

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postmarked within the time period allowed, computed as in paragraph (d)(1) of this section. If there is no postmark, or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the date of mailing.

(3) A waiver or an extension of the time limitations for filing a paper, other than a notice of appeal or a petition for reconsideration, may be requested by motion.

[27 FR 12186, Dec. 8, 1962, as amended at 53 FR 49491, Dec. 7, 1988]

§ 501.11 Appearances.

(a) *Representation.* In any proceeding before the Board, a party may appear in person, or by counsel or any other duly authorized person, including any accredited representative of an employee organization. No person shall be recognized as representing an appellant or intervenor unless there shall be filed with the Board a statement in writing, signed by the party to be represented, authorizing such representation. Such representative when accepted shall continue to be recognized unless he should abandon such capacity, withdraw, or the appellant or intervenor directs otherwise.

(b) *Former members of the Board; other employees of the Department of Labor.* A former member of the Board shall not be allowed to participate as counsel or other representative before the Board in any proceeding until two years from the termination of his status as a Board member. The practice of other former employees of the Department of Labor are governed by 29 CFR 2.2 and 2.3.

(c) *Debarment of counsel or other representative.* Whenever in any proceeding the Board finds that a person acting as counsel or other representative for any party to the proceeding is guilty of unethical or unprofessional conduct, the Board may order that such person be excluded from further acting as counsel or other representative in such proceeding. An appeal may be taken to the Secretary of Labor from such an order, but the proceeding shall not be delayed or suspended pending disposition of the appeal, although the Board may suspend the proceeding for a reasonable

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time for the purpose of enabling the party to obtain different counsel or other representative. Whenever the Board has issued an order precluding a person from further acting as counsel or other representative in a proceeding, the Board shall within a reasonable time thereafter submit to the Secretary of Labor a report of the facts and circumstances surrounding the issuance of the order, and shall recommend what action the Secretary of Labor should take in regard to the appearance of such person as counsel or other representative in other proceedings before the Board. Before any action is taken debarring such person as counsel or representative from other proceedings, he shall be furnished notice and opportunity to be heard on the matter.

(d) *Fees.* No claim for legal or other service rendered in respect to a proceeding before the Board to or on account of any person, shall be valid unless approved by the Board or by a member thereof. No contract for a stipulated fee or for a fee upon a contingent basis shall be recognized by the Board, and no fee for service shall be approved except upon an application to the Board supported by a sufficient statement of the extent and character of the necessary work done before the Board on behalf of the interested party. Except where such representation is gratuitous, the fee approved by the Board, or by a member thereof, shall be reasonably commensurate with the actual necessary work performed by such representative, taking into account the capacity in which the representative has appeared, the amount of the compensation involved, and the circumstances of the appellant.

§ 501.12 Intervention.

The Board may permit any person whose rights may be affected by any proceeding before the Board to intervene therein whenever such person shows in a written petition to intervene that such rights are so affected. The petition should state with precision and particularity (a) the rights affected; and (b) the nature of any argument he intends to make.