

§ 501.4

any findings of fact, conclusions of law, or exercise of (or failure to exercise) discretion complained of. Any application containing incomplete information shall be returned to the applicant with a description of the additional information needed and a reasonable opportunity for furnishing any such information shall be allowed.

(d) *Time for filing.* (1) Except as provided in paragraph (d)(2) of this section, any application for review by a person residing within the United States or Canada must be filed within 90 days from the date of issuance of the final decision of the Director, and any application for review by a person residing outside the United States or Canada must be filed within 180 days from the date of issuance.

(2) For good cause shown, the Board may in its discretion waive a failure to file an application within the time limitations provided in paragraph (d)(1) of this section, but for no longer than one year from the date of issuance of the final decision of the Director.

(3) *Date of filing*—(i) *Date or receipt.* Except as otherwise provided in this section, a notice of appeal is considered to have been filed only as of the date it is received in the office of the clerk of the Board.

(ii) *Date of mailing.* If the notice is sent by mail and the fixing of the date of delivery as the date of filing would render the appeal untimely, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. 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.

(e) *Briefs and supporting statements.* Any application for review may be accompanied by a brief or supporting statement.

[27 FR 12186, Dec. 8, 1982, as amended at 53 FR 49491, Dec. 7, 1988]

§ 501.4 Transmittal of record.

(a) The Board shall serve upon the Director a copy of each application for review and any brief or supporting statement accompanying it. Within 60

20 CFR Ch. IV (4-1-08 Edition)

days from the date of such service, the Director, through his legal representative, the Solicitor of Labor, shall transmit to the Board the record of the proceeding to which the application refers and a statement in support of his decision, or other pleading, as appropriate, signed on his behalf by his legal representative.

(b) On application of the Director, the Board may in its discretion extend the 60-day time for submittal to the Board of the record of proceedings and accompanying statement or pleading.

[42 FR 62471, Dec. 13, 1977]

§ 501.5 Oral argument.

(a) *Notice.* Whenever any party requests an opportunity to present oral argument the Board shall schedule the case for argument. Each party shall be notified at least 10 days before the date of argument. The notice shall state the issues to be heard, as determined by the Board.

(b) *Time allowed.* Generally not more than 1 hour shall be allowed for oral argument by any party although in appropriate cases the Board may in its discretion extend or shorten the time allowed.

(c) *Failure to respond to notice.* Failure to respond to a notice of oral argument shall not prejudice the rights of any party to the proceeding. The Board in its discretion may set the case for further argument upon notice or it may proceed to dispose of the appeal pursuant to § 501.6.

§ 501.6 Decisions.

(a) The decision of the Board shall contain a written opinion setting forth the reasons for the action taken and an appropriate order. The decision may consist of affirmance, reversal, remand for further development of the evidence, or other appropriate action. A copy of the decision shall be sent by the Board to all parties in interest. The case record shall be returned to the Director with a copy of the decision.

(b) A decision of not less than two members shall be the decision of the Board.

(c) The decision of the Board shall be final as to the subject matter appealed and such decision shall not be subject to review, except by the Board.

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