

§ 13.24

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(c) A party seeking a subpoena will file a written request therefore not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request will be accompanied by a proposed subpoena, which will specify and Documents to be produced and will designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena will specify the time and place at which the witness is to appear and any Documents the witness is to produce.

(e) The party seeking the subpoena will serve it in the manner prescribed in § 13.8. A subpoena on a party or upon an Individual under the control of party may be served by first class mail.

(f) A party or the Individual to whom the subpoena is directed may file a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service. If the ALJ has not acted on such a motion by the return date, such date will be suspended pending the ALJ's final action on the motion.

§ 13.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may Make any order that justice requires to protect a party or Person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) That the discovery not be had;
- (2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) That the discovery may be had only through a method of discovery other than that requested;
- (4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except Persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; and

(9) That the parties simultaneously submit to the ALJ specified Documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 13.25 Fees.

The party requesting a subpoena will pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage will accompany the subpoena when served, except that when a subpoena is issued on behalf of the Authority, a check for witness fees and mileage need not accompany the subpoena.

§ 13.26 Filing, form and service of papers.

(a) *Filing and form.* (1) Documents filed with the ALJ will include an original and two copies.

(2) Every pleading and paper filed in the proceeding will contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., Motion to Quash Subpoena).

(3) Every pleading and paper will be signed by, and will contain the address and telephone number of, the party or the Person on whose behalf the paper was filed, or his or her Representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its Representative or by proof that the Document was sent by certified or registered mail.

(b) *Service.* A party filing a Document will, at the time of filing, serve a copy of such Document on every other

party. Service upon any party of any Document other than those required to be served as prescribed in §13.8 will be Made by delivering a copy, or by placing a copy of the Document in the United States mail, postage prepaid and addressed, to the party's last known address. When a party is represented by a Representative, service will be Made upon such Representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the Individual serving the Document by Personal delivery or by mail, setting forth the manner of service, will be proof of service.

§ 13.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government will be excluded from the computation.

(c) Where a Document has been served or issued by placing it in the United States mail, an additional five days will be added to the time permitted for any responses.

§ 13.28 Motions.

(a) Any application to the ALJ for an order or ruling will be by motion. Motions will state the relief sought, the authority relied upon, and the facts alleged, and will be filed and served on all other parties.

(b) Except for motions Made during a prehearing conference or at the hearing, all motions will be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing response thereto has expired, except upon consent of the parties or following a hearing on the motion, but may over-

rule or deny such motion without awaiting a response.

(e) The ALJ will Make a reasonable effort to dispose of all outstanding motions before the hearing begins.

(f) Except as provided by §§13.21(e)(3) and 13.23(f), which concern subpoenas, the filing or pendency of a motion will not automatically alter or extend a deadline or return date.

§ 13.29 Sanctions.

(a) The ALJ may sanction a Person, including any party or Representative, for:

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Sanctions include but are not limited to those specifically set forth in paragraphs (c), (d), and (e) of this section. Any such sanction will reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part begun by service of a notice of hearing, the ALJ may dismiss the action or may issue an Initial Decision imposition penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other Document that is not filed in a timely fashion.