

## Department of Justice

## § 32.2

### Subpart B—Death Benefit Claims

- 32.11 Scope of subpart.
- 32.12 Time for filing claim.
- 32.13 Definitions.
- 32.14 PSOB Office determination.
- 32.15 Prerequisite certification.
- 32.16 Payment.
- 32.17 Request for Hearing Officer determination.

### Subpart C—Disability Benefit Claims

- 32.21 Scope of subpart.
- 32.22 Time for filing claim.
- 32.23 Definitions.
- 32.24 PSOB Office determination.
- 32.25 Prerequisite certification.
- 32.26 Payment.
- 32.27 Motion for reconsideration of negative disability finding.
- 32.28 Reconsideration of negative disability finding.
- 32.29 Request for Hearing Officer determination.

### Subpart D—Educational Assistance Benefit Claims

- 32.31 Scope of subpart.
- 32.32 Time for filing claim.
- 32.33 Definitions.
- 32.34 PSOB Office determination.
- 32.35 Disqualification.
- 32.36 Payment and repayment.
- 32.37 Request for Hearing Officer determination.

### Subpart E—Hearing Officer Determinations

- 32.41 Scope of subpart.
- 32.42 Time for filing request for determination.
- 32.43 Appointment and assignment of Hearing Officers.
- 32.44 Hearing Officer determination.
- 32.45 Hearings.
- 32.46 Director appeal.

### Subpart F—Director Appeals and Reviews

- 32.51 Scope of subpart.
- 32.52 Time for filing Director appeal.
- 32.53 Review.
- 32.54 Director determination.
- 32.55 Judicial appeal.

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SOURCE: 71 FR 46037, Aug. 10, 2006, unless otherwise noted.

### § 32.0 Scope of part.

This part implements the Act, which, as a general matter, authorizes the payment of three different legal gratuities:

- (a) Death benefits;
- (b) Disability benefits; and
- (c) Educational assistance benefits.

[73 FR 76528, Dec. 17, 2008]

### Subpart A—General Provisions

#### § 32.1 Scope of subpart.

This subpart contains provisions generally applicable to this part.

#### § 32.2 Computation of time; filing.

(a) In computing any period of time prescribed or allowed, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a federal legal holiday, or, when the act to be done is a filing with the PSOB Office, a day on which weather or other conditions have caused that Office to be closed or inaccessible, in which event the period runs until the end of the next day that is not one of the aforescribed days.

(b) A filing is deemed filed with the PSOB Office, a Hearing Officer, the Director, or any other OJP office, -officer, -employee, or -agent, only on the day that it actually is received at the office of the same. When a filing is prescribed to be filed with more than one of the foregoing, it shall be deemed filed as of the day the last such one so receives it.

(c) Notice is served by the PSOB Office upon an individual on the day that it is—

(1) Mailed, by U.S. mail, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office;

(2) Delivered to a courier or other delivery service, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office; or

### § 32.3

### 28 CFR Ch. I (7–1–09 Edition)

(3) Sent by electronic means such as telefacsimile or electronic mail, addressed to the individual (or to his representative) at his (or his representative's) last telefacsimile number or electronic-mail address, or other electronic address, known to such Office.

(d) In the event of withdrawal or abandonment of a filing, the time periods prescribed for the filing thereof shall not be tolled, unless, for good cause shown, the Director grants a waiver.

(e) No claim may be filed (or approved) under the Act, at 42 U.S.C. 3796(a) or (b), with respect to an injury, if a claim under the Act, at 42 U.S.C. 3796c–1 or Public Law 107–37, has been approved, with respect to the same injury.

(f) No claim may be filed (or approved) under the Act, at 42 U.S.C. 3796c–1 or Public Law 107–37, with respect to an injury, if a claim under the Act, at 42 U.S.C. 3796(a) or (b), has been approved, with respect to the same injury.

#### § 32.3 Definitions.

*Act* means the Public Safety Officers' Benefits Act of 1976 (generally codified at 42 U.S.C. 3796, *et seq.*; part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968) (including (uncodified) sections 4 through 6 thereof (payment in advance of appropriations, rule of construction and severability, and effective date and applicability)), as applicable (*cf.* § 32.4(d)) according to its effective date and those of its various amendments (*e.g.*, Sept. 29, 1976 (deaths of State and local law enforcement officers and firefighters); Jan. 1, 1978 (educational assistance (officer died)); Oct. 1, 1984 (deaths of federal law enforcement officers and firefighters); Oct. 18, 1986 (deaths of rescue squad and ambulance crew members); Nov. 29, 1990 (disabilities); Oct. 3, 1996 (educational assistance (officer disabled)); Oct. 30, 2000 (disaster relief workers); Sept. 11, 2001 (chaplains and insurance beneficiaries); Dec. 15, 2003 (certain heart attacks and strokes); and Apr. 5, 2006 (designated beneficiaries)); and also includes Public Law 107–37 and section 611 of the USA PATRIOT Act (both of which relate to payment of benefits, described under subpart 1 of

such part L, in connection, respectively, with the terrorist attacks of Sept. 11, 2001, or with such terrorist attacks as may occur after Oct. 26, 2001), as well as the proviso under the Public Safety Officers Benefits heading in title II of division B of section 6 of Public Law 110–161.

*Adopted child*—An individual is an adopted child of a public safety officer only if—

(1) The individual is legally adopted by the officer; or

(2) As of the injury date, and not being a stepchild, the individual was—

(i) Known by the officer not to be his biological first-generation offspring; and

(ii) After the officer obtained such knowledge, in a parent-child relationship with him.

*Authorized commuting* means travel (not being described in the Act, at 42 U.S.C. 3796a(1), and not being a frolic or a detour) by a public safety officer—

(1) In the course of actually responding (as authorized) to a fire-, rescue-, or police emergency, or to a particular and extraordinary request (by the public agency he serves) for that specific officer to perform public safety activity (including emergency response activity the agency is authorized to perform), within his line of duty; or

(2) Between home and work (at a situs (for the performance of line of duty activity or action) authorized or required by the public agency he serves), or between any such authorized or required situs and another—

(i) Using a vehicle provided by such agency, pursuant to a requirement or authorization by such agency that he use the same for commuting; or

(ii) Using a vehicle not provided by such agency, pursuant to a requirement by such agency that he use the same for work.

*Biological* means genetic, but does not include circumstances where the genetic donation (under the laws of the jurisdiction where the offspring is conceived) does not (as of the time of such conception) legally confer parental rights and obligations.

*BJA* means the Bureau of Justice Assistance, OJP.