

## Department of Justice

## § 32.44

constitute the final agency determination.

### Subpart E—Hearing Officer Determinations

#### § 32.41 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to requests for Hearing Officer determination of claims denied under subpart B, C (including affirmances of negative disability findings described in § 32.27), or D of this part, and of claims remanded (or matters referred) under § 32.54(c).

[73 FR 76535, Dec. 17, 2008]

#### § 32.42 Time for filing request for determination.

(a) Subject to paragraph (c) of this section, and unless, for good cause shown, the Director extends the time for filing, no claim shall be determined if the request therefor is filed with the PSOB Office later than thirty-three days after the service of notice of—

(1) The denial (under subpart B, C (except as may be provided in paragraph (a)(2) of this section), or D of this part) of a claim; or

(2) The affirmance (under subpart C of this part) of a negative disability finding described in § 32.27.

(b) A claimant may file with his request for a Hearing Officer determination such supporting documentary, electronic, video, or other non-physical evidence and legal arguments as he may wish to provide.

(c) The timely filing of a motion for reconsideration under § 32.28(a) shall be deemed to constitute a timely filing, under paragraph (a) of this section, of a request for determination with respect to any grounds described in § 32.29(a)(1)(ii) that may be applicable.

[73 FR 76535, Dec. 17, 2008]

#### § 32.43 Appointment and assignment of Hearing Officers.

(a) Pursuant to 42 U.S.C. 3787 (employment and authority of hearing officers), Hearing Officers may be appointed from time to time by the Director, to remain on the roster of such Officers at his pleasure.

(b) Upon the filing of a request for a Hearing Officer determination (or upon remand or referral), the PSOB Office shall assign the claim to a Hearing Officer on the roster; the PSOB Office may assign a particular claim to a specific Hearing Officer if it judges, in its discretion, that his experience or expertise suit him especially for it.

(c) Upon its making the assignment described in paragraph (b) of this section, the PSOB Office shall serve notice of the same upon the claimant, with an indication that any evidence or legal argument he wishes to provide is to be filed simultaneously with the PSOB Office and the Hearing Officer.

(d) With respect to an assignment described in paragraph (b) of this section, the Hearing Officer's consideration shall be—

(1) *De novo* (unless the Director should expressly prescribe otherwise, with respect to a particular remand or referral), rather than in review of the findings, determinations, affirmances, reversals, assignments, authorizations, decisions, judgments, rulings, or other actions of the PSOB Office; and

(2) Consistent with subpart B, C, or D of this part, as applicable.

(e) OJP's General Counsel shall provide advice to the Hearing Officer as to all questions of law relating to any matter assigned pursuant to paragraph (b) of this section.

[73 FR 76535, Dec. 17, 2008]

#### § 32.44 Hearing Officer determination.

(a) Upon his determining a claim, the Hearing Officer shall file notice of the same simultaneously with the Director (for his review under subpart F of this part (in the event of approval)), the PSOB Office, and OJP's General Counsel, which notice shall specify the factual findings and legal conclusions that support it.

(b) Upon a Hearing Officer's denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer), which notice shall—

(1) Specify the Hearing Officer's factual findings and legal conclusions that support it; and