

§ 681.11

decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such a decision.

§ 681.11 What happens once an answer is filed?

(a) When the reviewing official receives an answer, he or she must file concurrently, the complaint and the answer with the ALJ, along with a designation of NSF's representative.

(b) When the ALJ receives the complaint and the answer, the ALJ will promptly serve a notice of hearing upon the defendant and the NSF representative, in the same manner as the complaint, which is described in § 681.8. The notice of oral hearing must be served within six years of the date on which the claim or statement is made.

(c) The notice must include:

(1) The tentative date, time, and place of the hearing;

(2) The legal authority and jurisdiction under which the hearing is being held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the defendant's representative and the representative for NSF; and

(6) Such other matters as the ALJ deems appropriate.

HEARING PROCEDURES

§ 681.12 What kind of hearing is contemplated?

The hearing is a formal proceeding conducted by the ALJ during which a defendant will have the opportunity to cross-examine witnesses, present testimony, and dispute liability.

§ 681.13 At the hearing, what rights do the parties have?

Each party has the right to:

(a) Be represented by a representative;

(b) Request a pre-hearing conference and participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law which will be made a part of the record;

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(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing, as permitted by the ALJ.

§ 681.14 What is the role of the ALJ?

An ALJ retained by NSF serves as the presiding officer at all hearings.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.