

§ 422.603

20 CFR Ch. III (4-1-11 Edition)

§ 422.603 Overview of the review process.

Our notice of assignment will inform you as the assigned operator (or related person) which beneficiaries have been assigned to you, the reason for the assignment, and the dates of employment on which the assignment was based. The notice will explain that, if you disagree with the assignment for any beneficiary listed in the notice of assignment, you may request from us detailed information as to the work history of the miner and the basis for the assignment. Such request must be filed with us within 30 days after you receive the notice of assignment, as explained in § 422.604. The notice will also explain that if you still disagree with the assignment after you have received the detailed information, you may submit evidence that shows there is a prima facie case of error in that assignment and request review. Such request must be filed with us within 30 days after you receive the detailed information, as explained in § 422.605. Alternatively, you may request review within 30 days after you receive the notice of assignment, even if you have not first requested the detailed information. In that case, you still may request the detailed information within that 30-day period. (See § 422.606(c) for further details.)

§ 422.604 Request for detailed information.

(a) *General.* After you receive our notice of assignment listing the beneficiaries for whom you have premium responsibility, you may request detailed information as to the work histories of any of the listed miners and the basis for the assignment. Your request for detailed information must:

(1) Be in writing;

(2) Be filed with us within 30 days of receipt of that notice of assignment. Unless you submit evidence showing a later receipt of the notice, we will assume the notice was received by you within 5 days of the date appearing on the notice. We will consider the request to be filed as of the date we receive it. However, if we receive the request after the 30-day period, the postmark date on the envelope may be used as the filing date. If there is no postmark or the

postmark is illegible, the filing date will be deemed to be the fifth day prior to the day we received the request; and

(3) Identify the individual miners about whom you are requesting the detailed information.

(b) *The detailed information we will provide.* We will send you detailed information as to the work history and the basis for the assignment for each miner about whom you requested such information. This information will include the name and address of each employer for whom the miner has worked since 1978 or since 1946 (whichever period is appropriate), the amount of wages paid by each employer and the period for which the wages were reported. We will send you the detailed information with a notice informing you that you have 30 days from the date you receive the information to submit to SSA evidence of a prima facie case of error (as defined in § 422.602) and request review of the assignment if you have not already requested review. The notice will also inform you that, if you are seeking evidence to make a case of prima facie error, you may include with a timely filed request for review a written request for additional time to obtain and submit such evidence to us. Under these circumstances, you will have 90 days from the date of your request to submit the evidence before we determine whether we will review the assignment.

§ 422.605 Request for review.

We will review an assignment if you request review and show that there is a prima facie case of error regarding the assignment. This review is a review on the record and will not entail a face-to-face hearing. We will review an assignment if:

(a) You are an assigned operator (or related person);

(b) Your request is in writing and states your reasons for believing the assignment is erroneous;

(c) Your request is filed with us no later than 30 days from the date you received the detailed information described in § 422.604, or no later than 30 days from the date you received the notice of assignment if you choose not to request detailed information. Unless

you submit evidence showing a later receipt of the notice, we will assume you received the detailed information or the notice of assignment within 5 days of the date shown thereon. We will consider the request to be filed as of the date we receive it. However, if we receive the request after the 30-day period, the postmark date on the envelope may be used as the filing date. If there is no postmark or the postmark is illegible, the filing date will be deemed to be the fifth day prior to the day we received the request; and

(d) Your request is accompanied by evidence establishing a prima facie case of error regarding the assignment. If your request for review includes a request for additional time to submit such evidence, we will give you an additional 90 days from the date of your request for review to submit such evidence to us.

§ 422.606 Processing the request for review.

Upon receipt of your written request for review of an assignment and where relevant, the expiration of any additional times allowed under §§ 422.605(d) and 422.606(c), we will take the following action:

(a) *Request not timely filed.* If your request is not filed within the time limits set out in § 422.605(c), we will deny your request for review on that basis and send you a notice explaining that we have taken this action;

(b) *Lack of evidence.* If your request is timely filed under § 422.605(c) but you have not provided evidence constituting a prima facie case of error, we will deny your request for review on that basis and send you a notice explaining that we have taken this action;

(c) *Request for review without requesting detailed information.* If your request is filed within 30 days after you received the notice of assignment and you have not requested detailed information, we will not process your request until at least 30 days after the date you received the notice of assignment. You may still request detailed information within that 30-day period, in which case we will not process your request for review until at least 30 days after you received the detailed infor-

mation, so that you may submit additional evidence if you wish;

(d) *Reviewing the evidence.* If your request meets the filing requirements of § 422.605 and is accompanied by evidence constituting a prima facie case of error, we will review the assignment. We will review all evidence submitted with your request for review, together with the evidence used in making the assignment. An SSA employee who was not involved in the original assignment will perform the review. The review will be a review on the record and will not involve a face-to-face hearing.

(e) *Original decision correct.* If, following this review of the evidence you have submitted and the evidence in our file, we make a determination that the assignment is correct, we will send you a notice explaining the basis for our decision. We will not review the decision again, except as provided in § 422.607.

(f) *Original decision erroneous.* If, following this review of the evidence you have submitted and the evidence in our file, we make a determination that the assignment is erroneous, we will send you a notice to this effect. We will then determine who the correct operator is and assign the affected beneficiary(s) to that coal operator (or related person). If no assigned operator can be identified, the affected beneficiary(s) will be treated as “unassigned.” We will notify the UMWA Combined Benefit Fund Trustees of the review decision so that any premium liability of the initial assigned operator can be adjusted.

§ 422.607 Limited reopening of assignments.

On our own initiative, we may reopen and revise an assignment, whether or not it has been reviewed as described in this subpart, under the following conditions:

(a) The assignment reflects an error on the face of our records or the assignment was based upon fraud; and

(b) We sent to the assigned operator (or related person) notice of the assignment within 12 months of the time we decided to reopen that assignment.