

### § 30.310

OWCP, if any. Notification to either the claimant or the representative will be considered notification to both parties.

(b) At the same time it issues a recommended decision on a claim, the OWCP district office will forward the record of such claim to the FAB. Any new evidence submitted to the district office following the issuance of the recommended decision will also be forwarded to the FAB for consideration.

#### HEARINGS AND FINAL DECISIONS ON CLAIMS

### § 30.310 What must the claimant do if he or she objects to the recommended decision or wants to request a hearing?

(a) Within 60 days from the date the recommended decision is issued, the claimant must state, in writing, whether he or she objects to any of the findings of fact and/or conclusions of law contained in such decision, including HHS's reconstruction of the radiation dose to which the employee was exposed (if any), and whether a hearing is desired. This written statement should be filed with the FAB at the address indicated in the notice accompanying the recommended decision.

(b) For purposes of determining whether the written statement referred to in paragraph (a) of this section has been timely filed with the FAB, the statement will be considered to be "filed" on the date that the claimant mails it to the FAB, as determined by postmark, or on the date that such written statement is actually received by the FAB, whichever is the earliest determinable date.

### § 30.311 What happens if the claimant does not object to the recommended decision or request a hearing within 60 days?

(a) If the claimant does not file a written statement that objects to the recommended decision and/or requests a hearing within the period of time allotted in § 30.310, the FAB may issue a final decision accepting the recommendation of the district office as provided in § 30.316.

(b) If the recommended decision accepts all or part of a claim for compensation, the FAB may issue a final

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decision at any time after receiving written notice from the claimant that he or she waives any objection to all or part of the recommended decision.

### § 30.312 What will the FAB do if the claimant objects to the recommended decision but does not request a hearing?

If the claimant files a written statement that objects to the recommended decision within the period of time allotted in § 30.310 but does not request a hearing, the FAB will consider any objections by means of a review of the written record. If the claimant only objects to part of the recommended decision, the FAB may issue a final decision accepting the remaining part of the recommendation of the district office without first reviewing the written record (see § 30.316).

### § 30.313 How is a review of the written record conducted?

(a) The FAB reviewer will consider the written record forwarded by the district office and any additional evidence and/or argument submitted by the claimant. The reviewer may also conduct whatever investigation is deemed necessary.

(b) The claimant should submit, with his or her written statement that objects to the recommended decision, all evidence or argument that he or she wants to present to the reviewer. However, evidence or argument may be submitted at any time up to the date specified by the reviewer for the submission of such evidence or argument.

(c) Any objection that is not presented to the FAB reviewer, including any objection to HHS's reconstruction of the radiation dose to which the employee was exposed (if any), whether or not the pertinent issue was previously presented to the district office, is deemed waived for all purposes.

### § 30.314 How is a hearing conducted?

(a) The FAB reviewer retains complete discretion to set the time and place of the hearing, including the amount of time allotted for the hearing, considering the issues to be resolved. At the discretion of the reviewer, the hearing may be conducted by telephone or teleconference. As part

of the hearing process, the FAB reviewer will consider the written record forwarded by the district office and any additional evidence and/or argument submitted by the claimant. The reviewer may also conduct whatever investigation is deemed necessary.

(1) The FAB reviewer will try to set the hearing at a place that is within commuting distance of the claimant's residence, but will not be able to do so in all cases. Therefore, for reasons of economy, the claimant may be required to travel a roundtrip distance of up to 200 miles to attend the hearing.

(2) In unusual circumstances, the FAB reviewer may set a place for the hearing that is more than 200 miles roundtrip from the claimant's residence. However, in that situation, OWCP will reimburse the claimant for reasonable and necessary travel expenses incurred to attend the hearing if he or she submits a written reimbursement request that documents such expenses.

(b) Unless otherwise directed in writing by the claimant, the FAB reviewer will mail a notice of the time and place of the hearing to the claimant and any representative at least 30 days before the scheduled hearing date. If the claimant only objects to part of the recommended decision, the FAB reviewer may issue a final decision accepting the remaining part of the recommendation of the district office without first holding a hearing (see § 30.316). Any objection that is not presented to the FAB reviewer, including any objection to HHS's reconstruction of the radiation dose to which the employee was exposed (if any), whether or not the pertinent issue was previously presented to the district office, is deemed waived for all purposes.

(c) The hearing is an informal process, and the reviewer is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. The reviewer may conduct the hearing in such manner as to best ascertain the rights of the claimant. During the hearing process, the claimant may state his or her arguments and present new written evidence and/or testimony in support of the claim.

(d) Testimony at hearings is recorded, then transcribed and placed in the record. Oral testimony shall be made under oath.

(e) The FAB reviewer will furnish a transcript of the hearing to the claimant, who has 20 days from the date it is sent to submit any comments to the reviewer.

(f) The claimant will have 30 days after the hearing is held to submit additional evidence or argument, unless the reviewer, in his or her sole discretion, grants an extension. Only one such extension may be granted.

(g) The reviewer determines the conduct of the hearing and may terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative at or near the place of the oral presentation.

#### **§ 30.315 May a claimant postpone a hearing?**

(a) The FAB will entertain any reasonable request for scheduling the time and place of the hearing, but such requests should be made at the time that the hearing is requested. Scheduling is at the discretion of the FAB, and is not reviewable. In most instances, once the hearing has been scheduled and appropriate written notice has been mailed, it cannot be postponed at the claimant's request for any reason except those stated in paragraph (b) of this section, unless the FAB reviewer can reschedule the hearing on the same docket (that is, during the same hearing trip). If a request to postpone a scheduled hearing does not meet one of the tests of paragraph (b) of this section and cannot be accommodated on the same docket, no further opportunity for a hearing will be provided. Instead, the FAB will consider the claimant's objections by means of a review of the written record. In the alternative, a teleconference may be substituted for the hearing at the discretion of the reviewer.

(b) Where the claimant or the representative appointed by the claimant in accordance with § 30.600 of this part has a medical reason that prevents attendance at the hearing, or where the