

SECTION 25

Section 25 of the Act provides that witnesses summoned in proceedings under the Act or whose depositions are taken shall receive the same fees and mileage as witnesses in federal court.

Expert witnesses may be compensated for their time under Section 28(d) in cases where claimant prevails at appropriate rates determined by the administrative law judge. *See, e.g., Duhagon v. Metropolitan Stevedore Co.*, 31 BRBS 98 (1997), *aff'd*, 169 F.3d 615, 33 BRBS 1(CRT) (9th Cir. 1999) (doctor awarded \$450 per hour for deposition; Board held the administrative law judge acted within his discretion in denying request for an increase to \$600 per hour).

Digests

The Board held that an administrative law judge erred in awarding claimant a day's lost wages for attending a deposition at employer's request. Under Section 25 and the regulation at 20 C.F.R. §702.342, witnesses whose depositions are taken are limited to an attendance fee of \$40 per day. There is no federal case authority to support an award of lost wages to a witness. Moreover, the general rule is that a party is not entitled to witness fees and *per diem* expenses related to taking his own testimony. *Price v. Brady-Hamilton Stevedore Co.*, 31 BRBS 91 (1996).