

PART IV

ADMINISTRATIVE PROCESSING OF CLAIMS, POWERS AND DUTIES OF THE ADMINISTRATIVE LAW JUDGE

A. THE CLAIMS PROCESS

3. FORMAL HEARING

Once a formal hearing is requested, the file is transferred to the Office of the Chief Administrative Law Judge, wherein lies all necessary powers for evidentiary development and complete adjudication of the issues raised. Sections 725.450-483 of the regulations, 20 C.F.R. §§725-450-483, delineate the procedures to be observed at the hearing. Section 725.421 enumerates eight types of documentary evidence that are transmitted by the district director to be entered into the record at the hearing. Section 725.456 relates to the introduction of documentary evidence. For a complete discussion of the admission of evidence, see Part III.A.4.d. of the Desk Book.

Section 725.463 places restrictions on the issues which may be resolved at the hearing. Only those issues identified by the district director, raised in writing before the district director or those not "reasonably ascertainable" by the parties at the time the claim was before the district director may be entertained. The administrative law judge, however, is given the discretion to accept or reject new issues or may remand to the district director for consideration. For a further discussion of this issue see Part III.B.4.b. of the Desk Book. The adjudication officer, subsequent to the close of the record, issues a written decision that contains all findings of fact, conclusions of law and an appropriate order. 20 C.F.R. §§725.476, 725.477.

CASE LISTINGS

[law in effect at the time decision is rendered must be applied by the fact-finder] ***Berka v. North American Coal Corp.***, 8 BLR 1-183 (1985); ***Rapavi v. Youghiogheny and Ohio Coal Co.***, 7 BLR 1-435 (1984).

DIGESTS

The Federal Rules of Civil Procedure (FRCP) apply to hearings under the Act where they are not in conflict with the Act or the regulations promulgated thereunder. ***Hamrick v. Eastern Associated Coal Corp.***, 12 BLR 1-39 (1988); ***Johnson v. Midland Coal***

Co., 7 BLR 1-206 (1984).

The Board held that the Act and regulations mandate that an administrative law judge hold a hearing on any claim, including a request for modification filed with the district director, whenever a party requests such a hearing, unless such hearing is waived by the parties or a party requests summary judgment. ***Pukas v. Schuylkill Contracting Co.***, 22 BLR 1-69 (2000).

Rule 18.20 of 29 C.F.R. Part 18 (Rules of Practice and Procedure before the Office of Administrative Law Judges) is inapplicable to the extent it conflicts with a procedure required by the Act or regulations. Where the admissions employer allegedly made by default under Rule 18.20 are in direct conflict with the issues employer raised utilizing the procedures required by the regulations, Rule 18.20 is inapplicable because the regulations are controlling. ***Johnson v. Royal Coal Co.***, BLR , BRB No. 01-0388 BLA (Feb. 28, 2002)(Hall, J., dissenting).

03/02