

PART XI
ATTORNEY FEES

A. BOARD REVIEW OF ATTORNEY FEE AWARDS MADE BELOW

3. TIME FOR FILING FEE PETITION

"The application shall be filed and served upon the claimant and all other parties within the time limits allowed by the deputy commissioner, administrative law judge, or appropriate appellate tribunal." 20 C.F.R. §725.366(a).

Section 725.366(a) provides the adjudicatory officer or appropriate appellate tribunal with the discretion to mandate a time limitation for the filing of a fee application. **Bankes v. Director, OWCP**, 765 F.2d 81, 8 BLR 2-1 (6th Cir. 1985), *aff'g*, 7 BLR 1-102 (1984); **Bradley v. Director, OWCP**, 8 BLR 1-418 (1985); *cf.* **Paynter v. Director, OWCP**, 9 BLR 1-190 (1986).

CASE LISTINGS

[Sixth Circuit held district director did not abuse discretion in refusing to consider fee petition filed more than fourteen months after time allotted] **Bankes v. Director, OWCP**, 765 F.2d 81, 8 BLR 2-1 (6th Cir. 1985), *aff'g*, 7 BLR 1-102 (1984).

[fifteen-day limit not unreasonable in light of twenty-one months elapsed after award of benefits; within district director's discretion to refuse to consider fee petition] **Bradley v. Director, OWCP**, 8 BLR 1-418 (1985).

DIGESTS

The Board found the district director abused his discretion in denying all attorney fees because the fee petition was received thirty days past expiration of the date set for filing. The Board indicated that the loss of an attorney fee is a harsh result that should not be imposed except in the most extreme circumstances.

Cf. **Paynter v. Director, OWCP**, 9 BLR 1-190 (1986).

Where a fee petition is granted in full without a request for enhancement due to delay,

and no request for reconsideration or appeal regarding the fee petition is taken within the prescribed thirty-day period, the order becomes final. Thus, the administrative law judge has no jurisdiction to consider counsel's motion for enhancement due to delay, which was submitted to the administrative law judge two years later. Such a motion is tantamount to a collateral attack on a final order. Therefore, enhancement is improper in these circumstances. ***Bennett v. Director, OWCP***, 17 BLR 1-72 (1992).

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