



BLBA BULLETIN NO. 16-04

Issue Date: **APR 27 2016**

Expiration Date: Indefinite

Subject: Claims Support Section (CSS) Procedures – Transferring Responsibility for Processing Decisions and Orders to District Offices

Background: Several years ago, the Division of Coal Mine Workers' Compensation (DCMWC) determined that certain duties previously performed by CSS should be transferred to the district offices. Under the amended procedures, district offices would ultimately become responsible for processing all decisions and orders (D&Os) issued by an ALJ, the Benefits Review Board or a court of appeals. CSS would continue to receive and date stamp incoming D&Os, but then would forward them to the district offices for all further processing.

To that end, beginning in July 2012, the Branch of Standards, Regulations and Procedures issued several communication protocols; established a steering committee; and published new policies and procedures for the CSS Workload Redistribution. In December 2012, responsibility for processing select D&Os was transferred to the district offices. Recent technological enhancements, such as implementation of the OWCP Imaging System (OIS), provide the means for transferring all D&Os to the district offices for review and processing.

Purpose: To outline and establish the policies and procedures pertaining to the final phase of this project in which the CSS will forward all decisions and orders to the district offices for their review and processing.

References: Black Lung Library; Procedure Manual Chapters 2-302, 2-1302 and 2-1500

Applicability: Appropriate DCMWC and contract personnel.

Actions: The district office claims examiners (CEs) and CSS staff will work together to process D&Os. CSS staff will receive, track and manage all incoming D&Os, scan the documents into OIS, and notify the appropriate district office within five (5) business days of receipt in the Director's Office.

The CEs will:

1. Review the D&Os received from CSS through the OIS system. Specifically, the CE must review the decision for accuracy, determine if a request for reconsideration or appeal is warranted, and take all appropriate actions including those in CAPS and OIS. The district office CEs will review and take all appropriate actions outlined in the D&O.

When determining whether a request for reconsideration or appeal of an ALJ D&O is warranted, CE is to follow these steps:

- Review all D&Os within 15 days of receipt by CSS to ensure reconsideration and appeal deadlines are met and to give the Office of the Solicitor appropriate time to respond to requests for action. Under the program regulations, the date the DCMWC office in Washington D.C. receives the D&O is the date it is considered filed for purposes of calculating the reconsideration or appeal period. 20 C.F.R. 725.478. Any motion for reconsideration or appeal must be filed within 30 days of that date. 20 C.F.R. 725.479.
- The CE should analyze the D&O to determine if it contains any errors. This review should include an analysis of the ALJ's findings regarding the party liable for benefits (which should be cross-checked for accuracy in CAPS); the claimant's entitlement to benefits; the benefits commencement date; and whether benefits should be augmented for any dependents. If no errors are identified, the CE should continue processing the claim as usual, as described in Step 2 below.
 - If the CE identifies error(s) in a D&O during the initial review, the CE must refer the claim to the District Director or delegated individual for additional review.
 - If the District Director or delegated individual concurs that appeal or reconsideration may be warranted, the CE will request review of the claim by the Regional Office of the Solicitor. This request is to be made by email, with a copy sent to the District Director. The name of the regional SOL attorney who handled the case may appear on the D&O's service sheet. If not, contact the Regional Solicitor's Office to obtain the name of the attorney.
 - The CE will make a note in CAPS that the regional SOL attorney has been contacted for his/her opinion. CE will also create a 15-day call-up in CAPS for a follow-up call if a response is not received.
 - If it concurs that action is warranted, the Solicitor's Office may file a motion for reconsideration or, if appropriate, refer the case to National Office of the Solicitor, Division of Black Lung and Longshore Legal Services (BLLLS), along with its appeal recommendation.

When determining whether a request for reconsideration or appeal of a BRB D&O is warranted, CE is to follow these steps:

- Review all D&Os within 15 days of the date issued by the Board. In the case of a BRB decision, the appeal period commences with the date the Board issues the decision. 20 C.F.R. 725.482. Any request for reconsideration must be filed within 30 days of that date. 20 C.F.R. 802.407(a). Any appeal must be filed within 60 days of the date of the BRB's decision. 20 C.F.R. 802.410(a).
- If the CE determines that reconsideration or appeal may be warranted, and the District Director or delegated individual concurs, the CE should contact BLLLS to request review of the BRB D&O.

Following review of all D&Os, CE enters all necessary adjudication codes in the system (see BLBA PM 2-302.7, 2-1302.9, and 2-1500.9).

2. If no errors are found following review of the D&O, CE will complete the following, depending on the outcome of the D&O:

- If the ALJ reversed the District Director's (DD's) award of benefits:
 - CE promptly suspends benefits and creates automated accounts receivable on the accounting subsystem.
 - CE notifies the claimant of the overpayment and the amount incurred. If the claimant files an appeal, all overpayment payment actions are held in abeyance until the appeal process is concluded and the denial becomes final. If the claimant elects not to file an appeal, CE will continue with standard overpayment recovery actions.
- If the ALJ reversed the DD's denial or concurred with the DD's award of benefits:
 - CE will contact the Responsible Operator (RO) or their defense counsel to determine if they are in agreement with the Award. If the RO files an appeal and refuses to pay benefits, the CE initiates interim payments from the Trust Fund.
 - If a Trust Fund case, CE promptly initiates benefit payments.

3. If any party files a timely appeal of an ALJ's D&O, CE is to notify CSS via email. CSS will then prepare the formal record for referral to the BRB by preparing a transmittal memorandum (see Exhibit 1, attached), and completing the appropriate fields in the BRB adjudication data set. The 505 diary action code will then be entered by CSS, and the record will be tracked to location 05 25.

Disposition: Retain this Bulletin until its expiration date or its incorporation into the Black Lung Benefits Procedure Manual.



MICHAEL A. CHANCE
Director, Division of Coal
Mine Workers' Compensation

Distribution: All DCMWC Staff

EXHIBIT 1

DATE

MEMORANDUM TO: BENEFITS REVIEW BOARD
 U.S. DEPARTMENT OF LABOR
 P. O. Box 37601
 WASHINGTON, D.C. 20013-7601

ATTN: THOMAS O. SHEPHERD, JR., Clerk of the Appellate Boards

FROM: Michael Chance, District Director, Division of Coal Mine Workers' Compensation

SUBJECT: Notice of Appeal - Claim for Benefits, Black Lung Benefits Act, 30 U.S.C., 901 et seq.

CASE NAME: «CLAIMANT» V. «RO» and Director, Office of Workers' Compensation Programs

CASE NUMBER: [Insert Case Number]

SSN: «MASKEDSSN»

CASE ID: «CASE_ID»

BRB NUMBER: [Insert BRB Number]

Documents constituting the official record of the claim are being forwarded with this memorandum pursuant to your notification that an **appeal** has been filed before the Benefits Review Board.

REGULAR MAIL

CLAIMANT ATTY

«ATTY»
«ATTYADDR1»
«ATTYADDR2»
«ATTYCITY», «ATTYSTATE» «ATTYZIP»

Rae Ellen James, Esq.

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EMPLOYER ATTY

«ROA»
«ROAFIRM»
«ROAADDR1»
«ROAADDR2»
«ROACSZ»

[Enter Name of Regional Solicitor]

Associate Regional Solicitor
Department of Labor
ADDRESS

CLAIMANT

«ADDR1»
«ADDR2»«CITY», «STATE» «ZIP»