

## § 260.10

a showing by the appellant that he or she has argument to present which for valid reasons he or she was unable to present at an earlier stage or in cases in which the Board requests further elaboration of the appellant's arguments. In such cases, the further argument shall be submitted orally or in writing, as the Board may indicate in each case, and shall be subject to such restrictions as to form, subject matter, length and time as the Board may indicate to the appellant.

(f) *Issuance of decision.* The Board shall make every effort to issue a decision within 90 days after the later of:

(1) The date the final appeal is filed;

(2) The date new or better evidence is obtained in accordance with § 260.9(d) and the appellant has commented on it;

(3) The date new or better evidence is obtained in accordance with § 260.9(d) and after the close of the comment period;

(4) The date further argument submitted in accordance with § 260.9(e) is received; or

(5) The date the record is returned to the Board following referral back to the hearings officer.

(g) *Review of decisions rendered prior to appeal to Board.* The Board may, on its own motion, review or cause to be reviewed any decision issued by a subordinate official or employee under this part.

(The information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 3220-0007)

[47 FR 36809, Aug. 24, 1982, as amended at 50 FR 19523, May 9, 1985; 52 FR 11017, Apr. 6, 1987]

## § 260.10 Determination of date of filing of appeal.

In determining whether an appeal has been made in accordance with the regulations in this part, the date of filing a duly executed appeal form prescribed by the Board shall be the date of its receipt at an office of the Board or the date of delivery for the purpose of transmission to the Board's main office in Chicago, Illinois, to any field agent specifically authorized by a regional director to receive custody thereof in the district where delivery is made, whichever date is earlier.

## 20 CFR Ch. II (4-1-01 Edition)

### PART 261—ADMINISTRATIVE FINALITY

Sec.

261.1 Reopening and revising decisions.

261.2 Conditions for reopening.

261.3 Change of legal interpretation or administrative ruling.

261.4 Decisions which shall not be reopened.

261.5 Late completion of timely investigation.

261.6 Notice of revised decision.

261.7 Effect of revised decision.

261.8 Time and place to request review of a revised decision.

261.9 Finality of findings when later claim is filed on same earnings record.

261.10 Increase in future benefits where time period for reopening has expired.

261.11 Discretion of the three-member Board to reopen or not to reopen a final decision.

AUTHORITY: 45 U.S.C. 231f.

SOURCE: 62 FR 45713, Aug. 29, 1997, unless otherwise noted.

#### § 261.1 Reopening and revising decisions.

(a) This part sets forth the Board's rules governing finality of decisions. After the expiration of the time limits for review as set forth in part 260 of this chapter, decisions of the agency may be reopened and revised under the conditions described in this part, by the bureau, office, or entity that made the earlier decision or by a bureau, office, or other entity at a higher level, which has the claim properly before it.

(b) A *final decision* as that term is used in this part means any decision of the type listed in § 260.1 of this chapter where the time limits for review as set forth in part 260 of this chapter or in the Railroad Retirement Act have expired.

(c) *Reopening* a final decision under this part means a conscious determination on the part of the agency to reconsider an otherwise final decision for purposes of revising that decision.

(d) *New and material evidence* as that phrase is used in this part means evidence that may reasonably be expected to affect a final decision, which was unavailable to the agency at the time the decision was made, and which the claimant could not reasonably have been expected to have submitted at that time.