

**§ 410.694 Right to request review of the hearing officer's decision.**

(a) *General.* After the hearing officer has issued a decision, either of the parties (see § 410.692) may request the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The request for review shall be made in writing and filed with the Appeals Council within 30 days from the date of mailing the notice of the hearing officer's decision, except where the time is extended for good cause. The requesting party shall certify that a copy of the request for review and of any documents that are submitted therewith (see § 410.695) have been mailed to the opposing party.

**§ 410.695 Procedure before Appeals Council on review of hearing officer's decision.**

The parties shall be given, upon request, a reasonable time to file briefs or other written statements as to fact and law and to appear before the Appeals Council for the purpose of presenting oral argument. Any brief or other written statement of contentions shall be filed with the Appeals Council, and the presenting party shall certify that a copy has been mailed to the opposing party.

**§ 410.696 Evidence admissible on review.**

(a) *General.* Evidence in addition to that introduced at the hearing before the hearing officer may not be admitted except where it appears to the Appeals Council that the evidence is relevant and material to an issue before it, and subject to the provisions in this section.

(b) *Individual charged filed answer.* Where it appears to the Appeals Council that additional relevant material is available and the individual charged filed an answer to the charges (see § 410.689), the Appeals Council shall require the production of such evidence and may designate a hearing officer or member of the Appeals Council to receive such evidence. Before additional evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, and each party shall be given a reasonable opportunity

to comment on such evidence and to present other evidence which is relevant and material to the issues unless such notice is waived.

(c) *Individual charged did not file answer.* Where the individual charged filed no answer to the charges (see § 410.689), evidence in addition to that introduced at the hearing before the hearing officer may not be admitted by the Appeals Council.

**§ 410.697 Decision by Appeals Council on review of hearing officer's decision.**

The decision of the Appeals Council shall be based upon evidence received into the hearing record (see § 410.692(j)) and such further evidence as the Appeals Council may receive (see § 410.696) and shall either affirm, reverse, or modify the hearing officer's decision. The Appeals Council, in modifying a hearing officer's decision suspending the individual for a specified period shall in no event reduce a period of suspension to less than 1 year, or in modifying a hearing officer's decision to disqualify an individual shall in no event impose a period of suspension of less than 1 year. Where the Appeals Council affirms or modifies a hearing officer's decision, the period of suspension or disqualification shall be effective from the date of the Appeals Council's decision. Where a period of suspension or disqualification is initially imposed by the Appeals Council, such suspension or disqualification shall be effective from the date of the Appeals Council's decision. The decision of the Appeals Council will be in writing and a copy of the decision will be mailed to the individual at his last known address and to the Deputy Commissioner for Programs and Policy, or his or her designee.

[36 FR 23760, Dec. 14, 1971, as amended at 37 FR 17709, Aug. 30, 1972; 62 FR 38454, July 18, 1997]

**§ 410.698 Dismissal by Appeals Council.**

The Appeals Council may dismiss a request for the review of any proceedings instituted under § 410.688 pending before it in any of the following circumstances:

## Social Security Administration

## § 410.700

(a) *Upon request of party.* Proceedings pending before the Appeals Council may be discontinued and dismissed upon written application of the party or parties who filed the request for review provided there is no party who objects to discontinuance and dismissal.

(b) *Death of party.* Proceedings before the Appeals Council may be dismissed upon death of a party against whom charges have been preferred.

(c) *Request for review not timely filed.* A request for review of a hearing officer's decision shall be dismissed when the party has failed to file a request for review within the time specified in § 410.694 and such time is not extended for good cause.

### § 410.699 Reinstatement after suspension or disqualification.

(a) *General.* An individual shall be automatically reinstated to serve as representative before the Administration at the expiration of any period of suspension. In addition, after 1 year from the effective date of any suspension or disqualification, an individual who has been suspended or disqualified from acting as a representative in proceedings before the Administration may petition the Appeals Council for reinstatement prior to the expiration of a period of suspension or following a disqualification order. The petition for reinstatement shall be accompanied by any evidence the individual wishes to submit. The Appeals Council shall notify the Deputy Commissioner for Programs and Policy, or his or her designee, of the receipt of the petition and grant him 30 days in which to present a written report of any experiences which the Administration may have had with the suspended or disqualified individual during the period subsequent to the suspension or disqualification. A copy of any such report shall be made available to the suspended or disqualified individual.

(b) *Basis of action.* A request for revocation of a suspension or a disqualification shall not be granted unless the Appeals Council is reasonably satisfied that the petitioner is not likely in the future to conduct himself contrary to the provisions of the rules and regulations of the Administration.

(c) *Notice.* Notice of the decision on the request for reinstatement shall be mailed to the petitioner and a copy shall be mailed to the Deputy Commissioner for Programs and Policy, or his or her designee.

(d) *Effect of denial.* If a petition for reinstatement is denied, a subsequent petition for reinstatement shall not be considered prior to the expiration of 1 year from the date of notice of the previous denial.

[36 FR 23760, Dec. 14, 1971, as amended at 62 FR 38454, July 18, 1997]

### § 410.699a Penalties for fraud.

The penalty for any person found guilty of willfully making any false or misleading statement or representation for the purpose of obtaining any benefit or statement or payment under this part shall be:

- (a) A fine of up to \$1,000, or
- (b) Imprisonment for not more than 1 year, or
- (c) Both (a) and (b).

(Sec. 411, Federal Coal Mine Health and Safety Act of 1969, as amended; 85 Stat. 793, 30 U.S.C. 921)

[43 FR 34781, Aug. 7, 1978]

## Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

AUTHORITY: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), sec. 411, 82 Stat. 793 and 30 U.S.C. 902.

SOURCE: 43 FR 34781, Aug. 7, 1978, unless otherwise noted.

### § 410.700 Background.

(a) The Black Lung Benefits Reform Act of 1977 broadens the definitions of *miner* and *pneumoconiosis* and modifies the evidentiary requirements necessary to establish entitlement to black lung benefits. Section 435 of the Black Lung Benefits Reform Act of 1977 requires that each claimant whose claim has been denied or is pending be given the opportunity to have the claim reviewed under this Act. The purpose of the subpart G is to explain the changes and