

by certified mail, return receipt requested.

(c) If a request for hearing contains identification of witnesses or documents not previously considered by the Director, the Director may make application to the assigned administrative law judge for an offer of proof from the physician, health care provider or claims representative for the purpose of discovery prior to hearing. If the offer of proof indicates injection of new issues or new material evidence not previously considered by the Director, the Director may request a remand order for purposes of reconsideration of the decision made pursuant to § 702.432 of these regulations.

(d) The parties may make application for the issuance of subpoenas upon a showing of good cause therefore to the administrative law judge.

(e) The administrative law judge shall issue a recommended decision after the termination of the hearing. The recommended decision shall contain appropriate findings, conclusions and a recommended order and be forwarded, together with the record of the hearing, to the Administrative Review Board for a final decision. The recommended decision shall be served upon all parties to the proceeding.

(f) Based upon a review of the record and the recommended decision of the administrative law judge, the Administrative Review Board shall issue a final decision.

[50 FR 404, Jan. 3, 1985, as amended at 55 FR 28606, July 12, 1990; 61 FR 19984, May 3, 1996]

§ 702.434 Judicial review.

(a) Any physician, health care provider or claims representative, after any final decision of the Administrative Review Board made after a hearing to which such person was a party, irrespective of the amount of controversy, may obtain a review of such decision by a civil action commenced within sixty (60) days after the mailing to him or her of notice of such decision, but the pendency of such review shall not operate as a stay upon the effect of such decision. Such action shall be brought in the Court of Appeals of the United States for the judicial circuit in which the plaintiff resides or has his or her principal place of business, or the

Court of Appeals for the District of Columbia pursuant to section 7(j)(4) of the Act, 33 U.S.C. 907(j)(4).

(b) As part of the Administrative Review Board answer, he or she shall file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith.

(c) The findings of fact of the Administrative Review Board, if based on substantial evidence in the record as a whole, shall be conclusive.

[50 FR 405, Jan. 3, 1985, as amended at 55 FR 28606, July 12, 1990; 61 FR 19984, May 3, 1996]

§ 702.435 Effects of debarment.

(a) The Director shall give notice of the debarment of a physician, hospital, or provider of medical support services or supplies to:

- (1) All OWCP district offices;
- (2) The Health Care Financing Administration;
- (3) The State or Local authority responsible for licensing or certifying the debarred party;
- (4) The employers and authorized insurers under the Act by means of an annual bulletin sent to them by the Director; and
- (5) The general public by posting in the district office in the jurisdiction where the debarred party maintains a place of business.

If a claims representative is debarred, the Director shall give notice to those groups listed in paragraphs (a) (1), (3), (4), and (5) of this section.

(b) Notwithstanding any debarment under this subpart, the Director shall not refuse a claimant reimbursement for any otherwise reimbursable medical expense if the treatment, service or supply was rendered by debarred provider in an emergency situation. However, such claimant will be directed by the Director to select a duly qualified provider upon the earliest opportunity.

[50 FR 405, Jan. 3, 1985]

§ 702.436 Reinstatement.

(a) If a physician or health care provider has been debarred or pursuant to § 702.431(d) or if a claims representative has been debarred pursuant to § 702.131(c) (1) or (3) the person debarred