

decision denying State coverage is issued under the State compensation act.

(Approved by the Office of Management and Budget under control number 1215-0160)

[50 FR 397, Jan. 3, 1985, as amended at 51 FR 4283, Feb. 3, 1986]

§ 702.213 Notice; by whom given.

Notice shall be given by the injured employee or someone on his behalf, or in the case of death, by the deceased employee's beneficiary or someone on his behalf.

[38 FR 26861, Sept. 26, 1973. Redesignated at 50 FR 397, Jan. 3, 1985]

§ 702.214 Notice; form and content.

Notice shall be in writing on a form prescribed by the Director for this purpose; such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give notice, and shall contain the name, address and Social Security Number (SSN) of the employee and, in death cases, also the SSN of the person seeking survivor benefits, and a statement of the time, place, nature and cause of the injury or death.

[58 FR 68032, Dec. 23, 1993]

§ 702.215 Notice; how given.

Notice shall be effected by delivering it—by hand or by mail at the address posted by the employer—to the individual designated to receive such notices. Notice when given to the district director, may be by hand or by mail on a form supplied by the Secretary, or orally in person or by telephone.

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[50 FR 398, Jan. 3, 1985]

§ 702.216 Effect of failure to give notice.

Failure to give timely notice to the employer's designated official shall not bar any claim for compensation if: (a) The employer, carrier, or designated official had actual knowledge of the injury or death; or (b) the district director or ALJ determines the employer or carrier has not been prejudiced; or (c) the district director excuses failure to

file notice. For purposes of this subsection, actual knowledge shall be deemed to exist if the employee's immediate supervisor was aware of the injury and/or in the case of a hearing loss, where the employer has furnished to the employee an audiogram and report which indicates a loss of hearing. Failure to give notice shall be excused by the district director if: a) Notice, while not given to the designated official, was given to an official of the employer or carrier, and no prejudice resulted; or b) for some other satisfactory reason, notice could not be given. Failure to properly designate and post the individual so designated shall be considered a satisfactory reason. In any event, such defense to a claim must be raised by the employer/carrier at the first hearing on the claim.

[51 FR 4283, Feb. 3, 1986]

§ 702.217 Penalty for false statement, misrepresentation.

(a) Any claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed \$10,000, by imprisonment not to exceed five years, or by both.

(b) Any person including, but not limited to, an employer, its duly authorized agent or an employee of an insurance carrier, who knowingly and willingly makes a false statement or representation for the purpose of reducing, denying or terminating benefits to an injured employee, or his dependents pursuant to section 9, 33 U.S.C. 909, if the injury results in death, shall be punished by a fine not to exceed \$10,000, by imprisonment not to exceed five years, or both.

[50 FR 398, Jan. 3, 1985]

CLAIMS

§ 702.221 Claims for compensation; time limitations.

(a) Claims for compensation for disability or death shall be in writing and filed with the district director for the

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compensation district in which the injury or death occurred. The Social Security Number (SSN) of the injured employee and, in cases of death, the SSN of the person seeking survivor benefits shall also be set forth on each claim. Claims may be filed anytime after the seventh day of disability or anytime following the death of the employee. Except as provided below, the right to compensation is barred unless a claim is filed within one year of the injury or death, or (where payment is made without an award) within one year of the date on which the last compensation payment was made.

(b) In the case of a hearing loss claim, the time for filing a claim does not begin to run until the employee receives an audiogram with the accompanying report which indicates the employee has sustained a hearing loss that is related to his or her employment. (See § 702.441).

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[50 FR 398, Jan. 3, 1985, as amended at 51 FR 4284, Feb. 3, 1986; 58 FR 68032, Dec. 23, 1993]

§ 702.222 Claims; exceptions to time limitations.

(a) Where a person entitled to compensation under the Act is mentally incompetent or a minor, the time limitation provision of § 702.221 shall not apply to a mentally incompetent person so long as such person has no guardian or other authorized representative, but § 702.221 shall be applicable from the date of appointment of such guardian or other representative. In the case of minor who has no guardian before he or she becomes of age, time begins to run from the date he or she becomes of age.

(b) Where a person brings a suit at law or in admiralty to recover damages in respect of an injury or death, or files a claim under a State workers' compensation act because such person is excluded from this Act's coverage by reason of section 2(3) or 3(d) of the Act (33 U.S.C. 902(3) or 903(d)), and recovery is denied because the person was an employee and defendant was an employer within the meaning of the Act, and such employer had secured compensation to such employee under the Act, the time limitation in § 702.221

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shall not begin to run until the date of termination of such suit or proceeding.

(c) Notwithstanding the provisions in paragraph (a) of this section, where the claim is one based on disability or death due to an occupational disease which does not immediately result in death or disability, it must be filed within two years after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice, should have been aware of the relationship between the employment, the disease and the death or disability, or within one year of the date of last payment of compensation, whichever is later. For purposes of occupational disease, therefore, the time limitation for filing a claim does not begin to run until the employee is disabled, or in the case of a retired employee, where a permanent impairment exists.

(d) The time limitations set forth above do not apply to claims filed under section 49 of the Act, 33 U.S.C. 949.

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[50 FR 398, Jan. 3, 1985]

§ 702.223 Claims; time limitations; time to object.

Notwithstanding the requirements of § 702.221, failure to file a claim within the period prescribed in such section shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

[38 FR 26861, Sept. 26, 1973. Redesignated and amended at 50 FR 397, Jan. 3, 1985]

§ 702.224 Claims; notification of employer of filing by employee.

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the district director shall give written notice thereof to the employer or carrier, served personally or by mail.

[38 FR 26861, Sept. 26, 1973. Redesignated at 50 FR 397, Jan. 3, 1985, as amended at 60 FR 51348, Oct. 2, 1995]