

§ 104.22

28 CFR Ch. I (7-1-03 Edition)

§ 104.22 Advance Benefits.

(a) *Advance Benefits.* Eligible Claimants may apply for immediate “Advance Benefits” in a fixed amount as follows:

(1) \$50,000 for Personal Representatives; and

(2) \$25,000 for injured claimants who meet the requirements of paragraph (d) of this section.

(b) *Credit against award.* The Advance Benefit shall be credited against any final compensation award so that the amount of the Advance Benefit is deducted from the final award under this program.

(c) *Application for Advance Benefits.* An otherwise eligible claimant may seek Advance Benefits to alleviate financial hardship faced by the claimant (or financial hardship faced by the beneficiaries of the decedent) by submitting an Eligibility Form described in §104.21(b) and indicating thereon that he or she is applying for Advance Benefits.

(d) *Eligibility for Advance Benefits.* In the case of a Personal Representative, the claimant may be deemed eligible for Advance Benefits if a Claims Evaluator or the Special Master or his designee determines that the claimant is eligible to recover under the Fund. In the case of an injured claimant, the claimant may be deemed eligible for Advance Benefits when the Special Master or his designee determines that the claimant is eligible to recover under the Fund *and* that the claimant’s physical injury required hospitalization for one week or more.

(e) *Authorization of payments.* (1) Payment in the amount described in paragraph (a) of this section will be authorized immediately upon a determination that the claimant is eligible for Advance Benefits and the claimant is:

(i) An injured claimant;

(ii) A Personal Representative who was the spouse of the deceased victim on September 11, 2001; or

(iii) A Personal Representative who has obtained the consent of the spouse of the deceased victim (or, if there is no surviving spouse, all of the dependents of the deceased victim) to file for Advance Benefits.

(2)(i) With respect to other Personal Representatives, payment will be au-

thorized within 15 days after the determination that the claimant is eligible for Advance Benefits, provided that no other individual has asserted a colorable conflicting claim as the Personal Representative with respect to the decedent and the Personal Representative identifies and has given notice to the beneficiaries to whom such Advance Benefits will be distributed.

(ii) In the event that a colorable conflicting claim has been asserted, no Advance Benefit will be paid until a final eligibility determination has been made.

(f) *Tolling of 120-day clock and other time periods.* A claimant filing an Eligibility Form requesting Advance Benefits before filing a Personal Injury Compensation Form or Death Compensation Form will be deemed to have waived his right to commencement of the 120-day period in section 405(b)(3) of the Act (providing that the Special Master shall provide notice to the claimant of his determination within 120 days after the date on which a claim is filed). The 120-day period and all other time limitations in this part, except those applicable to Advance Benefit payments, shall be stayed or tolled until such time that a Claims Evaluator determines that the claimant’s Personal Injury Compensation Form or Death Compensation Form is substantially complete.

Subpart C—Claim Intake, Assistance, and Review Procedures

§ 104.31 Procedure for claims evaluation.

(a) *Initial review.* Claims Evaluators shall review the forms filed by the claimant and either deem the claim “filed” (pursuant to 104.21(a)) or notify the claimant of any deficiency in the forms or any required documents.

(b) *Procedural tracks.* Each claim will be placed on a procedural track, described herein as “Track A” and “Track B,” selected by the claimant on the Personal Injury Compensation Form or Death Compensation Form.

(1) *Procedure for Track A.* The Claims Evaluator shall determine eligibility and the claimant’s presumed award pursuant to §§104.43 to 104.46 of this part and, within 45 days of the date the