

## § 30.300

## 20 CFR Ch. I (4–1–06 Edition)

that shows the relationship between the injury, illness, impairment or disease and the covered illness. Neither the fact that the injury, illness, impairment or disease manifests itself after a diagnosis of a covered illness, nor the belief of the claimant that the injury, illness, impairment or disease was caused by the covered illness, is sufficient in itself to prove a causal relationship.

### Subpart D—Adjudicatory Process

#### § 30.300 What process will OWCP use to decide claims for entitlement and to provide for administrative review of those decisions?

OWCP district offices will issue recommended decisions with respect to claims for entitlement under Part B and/or Part E of EEOICPA that are filed pursuant to the regulations set forth in subpart B of this part. In circumstances where a claim is made for more than one benefit available under Part B and/or Part E of the Act, OWCP may issue a recommended decision on only part of that particular claim in order to adjudicate that portion of the claim as quickly as possible. Should this occur, OWCP will issue one or more recommended decisions on the deferred portions of the claim when the adjudication of those portions is completed. All recommended decisions granting and/or denying benefits under Part B and/or Part E of the Act will be forwarded to the Final Adjudication Branch (FAB). Claimants will be given an opportunity to object to all or part of the recommended decision before the FAB. The FAB will consider objections filed by a claimant and conduct a hearing, if requested to do so by the claimant, before issuing a final decision on the claim for entitlement.

#### § 30.301 May subpoenas be issued for witnesses and documents in connection with a claim under Part B of EEOICPA?

(a) In connection with the adjudication of a claim under Part B of EEOICPA, an OWCP district office and/or a FAB reviewer may, at their own initiative, issue subpoenas for the attendance and testimony of witnesses, and for the production of books, elec-

tronic records, correspondence, papers or other relevant documents. Subpoenas will only be issued for documents if they are relevant and cannot be obtained by other means, and for witnesses only where oral testimony is the best way to ascertain the facts.

(b) A claimant may also request a subpoena in connection with his or her claim under Part B of the Act, but such request may only be made to a FAB reviewer. No subpoenas will be issued at the request of the claimant under any other portion of the claims process. The decision to grant or deny such request is within the discretion of the FAB reviewer. To request a subpoena under this section, the requestor must:

(1) Submit the request in writing and send it to the FAB reviewer as early as possible, but no later than 30 days (as evidenced by postmark, electronic marker or other objective date mark) after the date of the original hearing request;

(2) Explain why the testimony or evidence is directly relevant and material to the issues in the case; and

(3) Establish that a subpoena is the best method or opportunity to obtain such evidence because there are no other means by which the documents or testimony could have been obtained.

(c) No subpoena will be issued for attendance of employees of OWCP acting in their official capacities as decision-makers or policy administrators. For hearings taking the form of a review of the written record, no subpoena for the appearance of witnesses will be considered.

(d) The FAB reviewer will issue the subpoena under his or her own name. It may be served in person or by certified mail, return receipt requested, addressed to the person to be served at his or her last known principal place of business or residence. A decision to deny a subpoena requested by a claimant can only be challenged as part of a request for reconsideration of any adverse decision of the FAB which results from the hearing.

#### § 30.302 Who pays the costs associated with subpoenas?

(a) Witnesses who are not employees or former employees of the federal government shall be paid the same fees