

§ 301.307

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appointed representative, provided the release of such information is not determined to pose a threat to the safety of the claimant, any other inmate, or staff.

§ 301.307 Notice, time and place of committee action.

(a) Committee action shall ordinarily occur within 60 days of the receipt of claimant's request, except as provided in this section. Notice of the date set for Committee action shall be mailed to the claimant at the claimant's last known address, or to claimant's duly appointed representative. All Committee action shall be conducted at the Central Office of the Bureau of Prisons, 320 First Street NW., Washington, DC 20534.

(b) A hearing or reconsideration may be postponed at the option of the Committee, or, if good cause is shown, upon request of the claimant. A claimant may change the request from either hearing to reconsideration or reconsideration to hearing, provided notice of such change is received at least 10 days prior to the previously scheduled action.

§ 301.308 Committee reconsideration.

If the claimant elects to have the Committee reconsider any decision of the Claims Examiner, the claimant may submit documentary evidence which the Committee shall consider in addition to the original record. The Committee must receive evidence no less than 10 days prior to the date of reconsideration, and may request additional documentary evidence from the claimant or any other source.

§ 301.309 In-person hearing before the committee.

(a) The appeal shall be considered to have been abandoned if the claimant fails to appear at the time and place set for the hearing and does not, within 10 days after the time set for that hearing, show good cause for failure to appear.

(b) In conducting the hearing, the Committee is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, but may conduct the hearing in such manner as to best ascertain the

rights and obligations of the claimant and the government. At such hearing, the claimant shall be afforded an opportunity to present evidence in support of the claim under review.

(c) The Committee shall consider all evidence presented by the claimant, and shall, in addition, consider any other evidence as the Committee may determine to be useful in evaluating the claim. Evidence may be presented orally and/or in the form of written statements and exhibits.

(d) A representative appointed in accordance with the provisions of this section may make or give, on behalf of the claimant, any request or notice relative to any proceeding before the Committee. A representative shall be entitled to present or elicit evidence or make allegations as to fact and law in any proceeding affecting the claimant and to request information with respect to the claim. Likewise, any request for additional information, or notice to any claimant of any administrative action, determination, or decision, may be sent to the representative of such claimant, and shall have the same force and effect as if it had been sent to the claimant.

(e) In order to fully evaluate the claim, the Committee may question the claimant and any witness(es) appearing before the Committee on behalf of the claimant or government.

(f) Claimant, or claimant's representative, may question the Committee or any witness(es) appearing before the Committee on behalf of the government, but only on matters determined by the Committee to be relevant to its evaluation of the claim.

(g) The hearing shall be recorded, and a copy of the recording or, at the discretion of the Committee, a transcript thereof shall be made available to the claimant upon request, provided such request is made not later than 90 days following the date of the hearing.

§ 301.310 Witnesses.

(a) If a claimant wishes to present witnesses at the hearing, the claimant must provide the Committee, no less than 10 days before the scheduled hearing date, the name and address of each proposed witness, along with an outline

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of each witness' testimony. The Committee may limit the number of witnesses who may appear at a hearing, however, the Committee has no authority to compel the attendance of any witness.

(b) Any person confined in a Federal, State, or local penal or correctional institution at the time of the hearing may not appear as a witness, but that person's testimony may be submitted in the form of a written statement.

§ 301.311 Expenses associated with appearance at committee hearing.

Federal Prison Industries, Inc., may not assume responsibility for any expenses incurred by the claimant, claimant's representative, or any witness appearing on behalf of the claimant in connection with attendance at the hearing, as well as any other costs relating to any representative, witnesses, or evidence associated with a hearing before the Committee.

§ 301.312 Notice of committee determination.

The Committee shall mail written notice of its decision to affirm, reverse, or amend the Claims Examiner's initial determination, with the reasons for its decision, to the claimant at the claimant's last known address, or to claimant's duly appointed representative, no later than 30 days after the date of the hearing unless the Committee needs to make a further investigation as a result of information received at the hearing. If the Committee conducts further investigation subsequent to the hearing, the decision notice shall be mailed no later than 30 days after the conclusion of the Committee's investigation.

§ 301.313 Chief Operating Officer review.

Any claimant not satisfied with the Committee's reconsidered decision or decision after a hearing may appeal such decision to the Chief Operating Officer, Federal Prison Industries, Inc., 320 First Street NW., Washington, DC 20534. A written request for such an appeal must be received no later than 90 days after the date of notice of the Committee's decision. The Chief Operating Officer shall review the record

and affirm, reverse or amend the Committee's decision no later than 90 days after receipt of claimant's notice of appeal. Written notice of the Chief Operating Officer's decision shall be mailed to the claimant's last known address, or to the claimant's representative.

§ 301.314 Establishing the amount of award.

(a) If a claim for Inmate Accident Compensation is approved, the amount of compensation shall be based upon the degree of physical impairment existent at the time of the claimant's release regardless of when during the claimant's period of confinement the injury was sustained. No claim for compensation will be approved if full recovery occurs while the inmate is in custody and no impairment remains at the time of release.

(b) In determining the amount of accident compensation to be paid, the permanency and severity of the injury in terms of functional impairment shall be considered. The provisions of the Federal Employees' Compensation Act (FECA) (5 U.S.C. 8101, *et seq.*) shall be followed when practicable. The FECA establishes a set number of weeks of compensation applicable for injuries to specific body members or organs (section 8107).

(c) All awards of Inmate Accident Compensation shall be based upon the minimum wage (as prescribed by the Fair Labor Standards Act).

(1) For body members or organs covered under section 8107, the minimum wage applicable at the time of the award shall be used as the basis for determining the amount of compensation. Awards regarding injury to body members or organs covered under section 8107 shall be paid in a lump sum. Acceptance of such an award shall constitute full and final settlement of the claim for compensation.

(2) For body members or organs not covered under section 8107, awards will be paid on a monthly basis because such awards are subject to periodic review of entitlement. The minimum wage applicable at the time of each monthly payment shall be used in determining the amount of each monthly payment. Monthly payments are ordinarily mailed the first day of the