

**Subpart C—Disability Benefit Claims**

- 32.21 Scope of subpart.
- 32.22 Time for filing claim.
- 32.23 Definitions.
- 32.24 PSOB Office determination.
- 32.25 Prerequisite certification.
- 32.26 Payment.
- 32.27 Motion for reconsideration of negative disability finding.
- 32.28 Reconsideration of negative disability finding.
- 32.29 Request for Hearing Officer determination.

**Subpart D—Educational Assistance Benefit Claims**

- 32.31 Scope of subpart.
- 32.32 Time for filing claim.
- 32.33 Definitions.
- 32.34 PSOB Office determination.
- 32.35 Disqualification.
- 32.36 Payment and repayment.
- 32.37 Request for Hearing Officer determination.

**Subpart E—Hearing Officer Determinations**

- 32.41 Scope of subpart.
- 32.42 Time for filing request for determination.
- 32.43 Appointment and assignment of Hearing Officers.
- 32.44 Hearing Officer determination.
- 32.45 Hearings.
- 32.46 Director appeal.

**Subpart F—Director Appeals and Reviews**

- 32.51 Scope of subpart.
- 32.52 Time for filing Director appeal.
- 32.53 Review.
- 32.54 Director determination.
- 32.55 Judicial appeal.

AUTHORITY: Public Safety Officers' Benefits Act of 1976 (42 U.S.C. ch. 46, subch. 12); Public Law 107–37; USA PATRIOT Act, sec. 611 (42 U.S.C. 3796c–1).

SOURCE: 71 FR 46037, Aug. 10, 2006, unless otherwise noted.

**§ 32.0 Scope of part.**

This part implements the Act.

**Subpart A—General Provisions****§ 32.1 Scope of subpart.**

This subpart contains provisions generally applicable to this part.

**§ 32.2 Computation of time; filing.**

(a) In computing any period of time prescribed or allowed, the day of the

act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a federal legal holiday, or, when the act to be done is a filing with the PSOB Office, a day on which weather or other conditions have caused that Office to be closed or inaccessible, in which event the period runs until the end of the next day that is not one of the aforescribed days.

(b) A filing is deemed filed with the PSOB Office, a Hearing Officer, the Director, or any other OJP office, -officer, -employee, or -agent, only on the day that it actually is received at the office of the same. When a filing is prescribed to be filed with more than one of the foregoing, it shall be deemed filed as of the day the last such one so receives it.

(c) Notice is served by the PSOB Office upon an individual on the day that it is—

(1) Mailed, by U.S. mail, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office;

(2) Delivered to a courier or other delivery service, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office; or

(3) Sent by electronic means such as telefacsimile or electronic mail, addressed to the individual (or to his representative) at his (or his representative's) last telefacsimile number or electronic-mail address, or other electronic address, known to such Office.

(d) In the event of withdrawal or abandonment of a filing, the time periods prescribed for the filing thereof shall not be tolled, unless, for good cause shown, the Director grants a waiver.

(e) No claim may be filed (or approved) under the Act, at 42 U.S.C. 3796(a) or (b), with respect to an injury, if a claim under the Act, at 42 U.S.C. 3796c–1 or Public Law 107–37, has been approved, with respect to the same injury.

(f) No claim may be filed (or approved) under the Act, at 42 U.S.C. 3796c–1 or Public Law 107–37, with respect to an injury, if a claim under the

## Department of Justice

## § 32.3

Act, at 42 U.S.C. 3796(a) or (b), has been approved, with respect to the same injury.

### § 32.3 Definitions.

*Act* means the Public Safety Officers' Benefits Act of 1976 (generally codified at 42 U.S.C. 3796, *et seq.*; part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968) (including (uncodified) section 5 thereof (rule of construction and severability)), as applicable according to its effective date and those of its various amendments (*e.g.*, Sept. 29, 1976 (deaths of State and local law enforcement officers and fire-fighters); Jan. 1, 1978 (educational assistance); Oct. 1, 1984 (deaths of federal law enforcement officers and fire-fighters); Oct. 18, 1986 (deaths of rescue squad and ambulance crew members); Nov. 29, 1990 (disabilities); Oct. 30, 2000 (disaster relief workers); Sept. 11, 2001 (chaplains and insurance beneficiaries); Dec. 15, 2003 (certain heart attacks and strokes); and Apr. 5, 2006 (designated beneficiaries)); and also includes Public Law 107-37 and sections 611 and 612 of the USA PATRIOT Act (all three of which relate to payment of benefits, described under subpart 1 of such part L, in connection with terrorist attacks).

*Adopted child*—An individual is an adopted child of a public safety officer only if—

(1) The individual is legally adopted by the officer; or

(2) As of the injury date, and not being a stepchild, the individual was—

(i) Known by the officer not to be his biological first-generation offspring; and

(ii) After the officer obtained such knowledge, in a parent-child relationship with him.

*Authorized commuting* means travel by a public safety officer—

(1) In the course of actually responding to a fire, rescue, or police emergency; or

(2) Between home and work (at a situs authorized or required by the public agency he serves)—

(i) Using a vehicle provided by such agency, pursuant to a requirement or authorization by such agency that he use the same for commuting; or

(ii) Using a vehicle not provided by such agency, pursuant to a requirement by such agency that he use the same for work.

*BJA* means the Bureau of Justice Assistance, OJP.

*Cause*—A death, injury, or disability is caused by intentional misconduct if—

(1) The misconduct is a substantial factor in bringing it about; and

(2) It is a reasonably foreseeable result of the misconduct.

*Chaplain* means a clergyman, or other individual trained in pastoral counseling, who meets the definition provided in the Act, at 42 U.S.C. 3796b(2).

*Child of a public safety officer* means an individual—

(1) Who—

(i) Meets the definition provided in the Act, at 42 U.S.C. 3796b(3), in any claim—

(A) Arising from the public safety officer's death, in which the death was simultaneous (or practically simultaneous) with the injury; or

(B) Filed after the public safety officer's death, in which the claimant is the officer's—

(1) Biological child, born after the injury date;

(2) Adopted child, adopted by him after the injury date; or

(3) Stepchild, pursuant to a marriage entered into by him after the injury date; or

(ii) In any claim not described in paragraph (1)(i) of this definition—

(A) Meets (as of the injury date) the definition provided in the Act, at 42 U.S.C. 3796b(3), *mutatis mutandis* (*i.e.*, with "deceased" and "death" being substituted, respectively, by "deceased or disabled" and "injury"); or

(B) Having been born after the injury date, is described in paragraph (1)(i)(B)(1), (2), or (3) of this definition; and

(2) With respect to whom the public safety officer's parental rights have not been terminated, as of the injury date.

*Convincing evidence* means clear and convincing evidence.

*Crime* means an act or omission punishable as a criminal misdemeanor or felony.