

§ 509.5 Procedure for determination of claims.

(a) The Commission may on its own motion order a hearing upon any claim, specifying the questions to which the hearing shall be limited.

(b) Without previous hearing, the Commission or a designated member of the staff may issue a Proposed Decision in determination of a claim. This Proposed Decision will set forth findings of fact and conclusions of law on the relevant elements of the claim, to the extent that evidence and information relevant to such elements is before the Commission. The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

(c) The Proposed Decision will be delivered to the claimant or the claimant's attorney of record in person or by mail. Delivery by mail will be deemed completed 5 days after the mailing of the Proposed Decision addressed to the last known address of the claimant or the claimant's attorney of record. A copy of the Proposed Decision will be available for public inspection at the offices of the Commission, except in cases where public disclosure of the names of claimants is barred by statute.

(d) It will be the policy of the Commission to post on a bulletin board and on its World Wide Web site (<http://www.usdoj.gov/fcsc>), any information of general interest to claimants before the Commission.

(e) When the Proposed Decision denies a claim in whole or in part, the claimant may file notice of objection to the denial within 15 days of delivery of the decision. If the claimant wishes to appear at an oral hearing before the Commission to present his or her objection, the claimant must request the oral hearing at the time of submission of his or her objection, stating the reasons for objection, and may request a hearing on the claim, specifying whether for the taking of evidence or for oral argument on the legal issues which are the subject of the objection.

(f) Copies of objections to or requests for hearings on Proposed Decisions will be available for public inspection at the Commission's offices.

(g) Upon the expiration of 30 days after delivery to the claimant or claimant's attorney, if no objection under this section has in the meantime been filed, a staff Proposed Decision, upon approval by the Commission, will become the Commission's final determination and decision on the claim. A Proposed Decision issued by the Commission will become final 30 days after delivery to the claimant or the claimant's attorney without further order or decision by the Commission.

(h) If an objection has in the meantime been filed, but no hearing requested, the Commission may, after due consideration thereof:

(1) Issue a Final Decision affirming or modifying its Proposed Decision,

(2) Issue an Amended Proposed Decision, or

(3) On its own motion order hearing thereon, indicating whether for the taking of evidence on specified questions or for the hearing of oral arguments.

(i) After the conclusion of a hearing, upon the expiration of any time allowed by the Commission for further submissions, the Commission may proceed to issue a Final Decision in determination of the claim.

(j)(1) In case an individual claimant dies prior to the issuance of the Final Decision, that person's legal representative will be substituted as party claimant. However, upon failure of a representative to qualify for substitution, the Commission may issue its decision in the name of the estate of the deceased and, in case of an award, certify the award in the same manner to the Secretary of the Treasury for payment, if the payment of the award is provided for by statute.

(2) Notice of the Commission's action under this paragraph will be forwarded to the claimant's attorney of record, or if the claimant is not represented by an attorney, the notice will be addressed to the estate of the claimant at the last known place of residence.

(3) The term *legal representative* as applied in this paragraph means, in general, the administrator or executor, heir(s), next of kin, or descendant(s).

(k) After the date of filing with the Commission no claim may be amended to reflect the assignment thereof by the claimant to any other person or entity except as otherwise provided by statute.

(l) At any time after a final Decision has been issued on a claim, or a Proposed Decision has been entered as the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with the program under which such claim is filed, a petition to reopen on the ground of newly discovered evidence may be filed. No such petition will be entertained unless it appears therein that the newly discovered evidence came to the knowledge of the party filing the petition subsequent to the date of issuance of the Final Decision or the date on which the Proposed Decision was entered as the Final Decision; that it was not for want of due diligence that the evidence did not come sooner to the claimant's knowledge; and that the evidence is material, and not merely cumulative, and that reconsideration of the matter on the basis of that evidence would produce a different decision. The petition must include a statement of the facts which the petitioner expects to prove, the name and address of each witness, the identity of documents, and the reasons for failure to make earlier submission of the evidence.