

PART V

BENEFITS REVIEW BOARD POLICIES AND PROCEDURES

A. SCOPE OF REVIEW

5. MOOTNESS

Generally, an action is considered "moot" when it no longer presents a justiciable controversy because issues involved have become academic or settled. ***Sigma Chi Fraternity v. Regents of University of Colo.***, 258 F.Supp. 515, 523 (D. Colo. 1966). In such cases, the Board will refrain from deciding the appeal because of the well-established policy in federal practice against issuing advisory opinions. See e.g. ***Andrews v. Petroleum Helicopters, Inc.***, 15 BRBS 166 (1982).

CASE LISTINGS

[Third Circuit would not remand case on basis of absence of attestation of medical report submitted by claimant as the issue was rendered moot by 20 C.F.R. §725.459(b)] ***Republic Steel Corp. v. Leonard***, 635 F.2d 206, 212, 2 BLR 2-56 (3d Cir. 1980).

[Board held that employer's request for resolution of question of whether Jones Act or Outer Continental Shelf Lands Act applied to this case was request for an advisory opinion as employer reversed its position at oral argument regarding finding below] ***Andrews v. Petroleum Helicopters, Inc.***, 15 BRBS 166 (1982).

[claimant's contentions here were moot because they were only relevant to Sections 727.203(a)(1) and (b)(4) and Board resolved case under other subsections] ***Bibb v. Clinchfield Coal Co.***, 7 BLR 1-134 (1984).

[Third Circuit remanded case to Board to modify interest assessment to conform with employer's position as claimant advised on appeal that she had no interest in the outcome of this issue; claimant's action established intervening mootness] ***Greenwich Collieries v. Director, OWCP***, 732 F.2d 343, 6 BLR 2-38 (3d Cir. 1984).

DIGESTS

