

PART V

BENEFITS REVIEW BOARD POLICIES AND PROCEDURES

B. POLICIES AND PROCEDURES

4. *PRO SE* CLAIMANT

When a claimant appeals to the Board and is not represented by counsel, the regulations provide that the Board may prescribe an informal procedure to be followed in such case by such party. 20 C.F.R. §802.219. The Board's established policy in these circumstances is that the claimant's letter requesting an appeal is sufficient to perfect the appeal and the Board considers the issue raised to be whether the Decision and Order is supported by substantial evidence. *Walker v. Director, OWCP*, 9 BLR 1-233 (1987); *Antonio v. Bethlehem Mines Corp.*, 6 BLR 1-702 (1983).

The Board has determined that in cases where a petitioner is not represented by counsel, the Board will no longer require that the petitioner file a statement before the appeal can be reviewed. Instead, in cases where a petitioner appears *pro se*, the appeal will be reviewed under the general standard of review of whether the decision of the administrative law judge is rational, in accordance with law and supported by substantial evidence. Employer's motion to dismiss the *pro se* appeal as abandoned in this case is denied. *McFall v. Jewell Ridge Coal Corp.*, 12 BLR 1-176 (1989).

CASE LISTINGS

[Board treats appeal of unrepresented claimant as though he raised contention that substantial evidence does not support decision below] *Isbell v. Director, OWCP*, 4 BLR 1-180 (1981).

[an unrepresented claimant's letter requesting an appeal is sufficient to perfect appeal; Board will consider whether decision is supported by substantial evidence] *Antonio v. Bethlehem Mines Corp.*, 6 BLR 1-702 (1983).

[unrepresented claimant's appeal requires Board to consider if decision below is supported by substantial evidence] *Fetterman v. Director, OWCP*, 7 BLR 1-688 (1985).

DIGESTS

In an appeal by a *pro se* claimant, the Board considers the issue raised to be whether the Decision and Order below is supported by substantial evidence. ***Walker v. Director, OWCP***, 9 BLR 1-233 (1987).

The Board has determined that in cases where a petitioner is not represented by counsel, the Board will no longer require that the petitioner file a statement before the appeal can be reviewed. Instead, in cases where a petitioner appears *pro se*, the appeal will be reviewed under the general standard of review of whether the decision of the administrative law judge is rational, in accordance with law and supported by substantial evidence. Employer's motion to dismiss the *pro se* appeal as abandoned in this case is denied. ***McFall v. Jewell Ridge Coal Corp.***, 12 BLR 1-176 (1989).

In this case involving Tim White, an employee of Stone Mountain Health Services, who requested, in effect, that the appeal of the claimant he was assisting be treated as *pro se*, the Board noted that Mr. White had used the term "lay representative," but his statements indicate that he will not be acting as a *bona fide* lay representative, as is authorized to provide counsel to claimants under the Act, see 20 C.F.R. §§725.363(b), 725.365, 725.366, and which are required to adequately brief issues raised by the Board, see ***Burkholder v. Director, OWCP***, 8 BLR 1-58 (1985); 20 C.F.R. §802.211(a), (b), (d), and who may seek fees for services rendered, see 20 C.F.R. §§725.365, 725.367. Rather, the Board stated that it would consider claimant to be representing himself in the appeal. ***Shelton v. Claude V. Keen Trucking Co.***, 19 BLR 1-88 (1995)(Order).

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