

ment between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

(d) In reviewing a fee agreement under subsection (c) of this section or under section 5904(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4116, §4063; renumbered §7263 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4063 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b). Pub. L. 102-40, §402(d)(1), substituted "7264" for "4064".

Subsec. (d). Pub. L. 102-40, §402(d)(1), substituted "5904(c)(2)" for "3404(c)(2)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7264. Rules of practice and procedure

(a) The proceedings of the Court of Appeals for Veterans Claims shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section 7266 of this title.

(c) Section 455 of title 28 shall apply to judges and proceedings of the Court.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4116, §4064; renumbered §7264 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-82, §4, Aug. 6, 1991, 105 Stat. 376; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4064 of this title as this section.

Subsec. (b). Pub. L. 102-40, §402(d)(1), substituted "7266" for "4066".

Subsec. (c). Pub. L. 102-82 added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

INTERIM RULES OF COURT OF VETERANS APPEALS

Pub. L. 101-94, title II, §203, Aug. 16, 1989, 103 Stat. 627, provided that the Federal Rules of Appellate Procedure (28 U.S.C. App.) would be interim rules of United States Court of Veterans Appeals unless otherwise provided by the Court in accordance with this chapter, and if there was a conflict between a provision of Federal Rules of Appellate Procedure and procedures set forth in this chapter, procedures set forth in this chapter would apply.

§ 7265. Contempt authority; assistance to the Court

(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) misbehavior of any of its officers in their official transactions; or

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4116, §4065; renumbered §7265, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 4065 of this title as this section.

§ 7266. Notice of appeal

(a) In order to obtain review by the Court of Appeals for Veterans Claims of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

(b) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

(c) A notice of appeal shall be deemed to be received by the Court as follows:

(1) On the date of receipt by the Court, if the notice is delivered.

(2) On the date of the United States Postal Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

(d) For a notice of appeal mailed to the Court to be deemed to be received under subsection (c)(2) on a particular date, the United States Postal Service postmark on the cover in which

the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4116, §4066; renumbered §7266 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103-446, title V, §511(a), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107-103, title V, §507, Dec. 27, 2001, 115 Stat. 997.)

AMENDMENTS

2001—Pub. L. 107-103 struck out “(1)” before “In order to”, redesignated par. (2) of subsec. (a) as subsec. (b), redesignated par. (3) of subsec. (a) as subsec. (c) and subpars. (A) and (B) thereof as pars. (1) and (2), respectively, redesignated par. (4) of subsec. (a) as subsec. (d) and substituted “subsection (c)(2)” for “paragraph (3)(B)”, and struck out former subsec. (b) which read as follows: “The appellant shall also furnish the Secretary with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.”

1998—Subsec. (a)(1). Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1994—Subsec. (a). Pub. L. 103-446 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.”

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4066 of this title as this section.

Subsec. (a). Pub. L. 102-40, §402(d)(1), substituted “7104(e)” for “4004(e)”.

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-446, title V, §511(b), Nov. 2, 1994, 108 Stat. 4670, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 2, 1994] and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals [now United States Court of Appeals for Veterans Claims] on or after that date.”

INTERIM PROVISION FOR FILING NOTICES OF APPEAL

Pub. L. 101-94, title II, §202, Aug. 16, 1989, 103 Stat. 626, provided that in the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that was made before the date on which the United States Court of Veterans Appeals published in the Federal Register a notice by the Court that it had commenced operations, the period prescribed under this section within which a notice of appeal had to be filed with the Court was to be extended to the end of the 30-day period beginning on the date such notice was published, if the end of that period was later than the date that would otherwise be applicable under this section.

§ 7267. Decisions

(a) A decision upon a proceeding before the Court of Appeals for Veterans Claims shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court.

(b) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding.

(c) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Secretary shall preserve records so designated for not less than the period of time designated by the Archivist of the United States.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4117, §4067; renumbered §7267, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-82, §§1, 8(1), Aug. 6, 1991, 105 Stat. 375, 377; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1991—Pub. L. 102-40 renumbered section 4067 of this title as this section.

Subsec. (a). Pub. L. 102-82, §1(3), struck out before period at end “except as provided in subsection (d) of this section”.

Subsec. (b). Pub. L. 102-82, §1(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Court shall include in its decision a statement of its conclusions of law and determinations as to factual matters.”

Subsec. (c). Pub. L. 102-83 substituted “Secretary” for “Administrator”.

Pub. L. 102-82, §8(1), substituted “Archivist of the United States” for “Administrator of the National Archives and Records Administration”.

Pub. L. 102-82, §1(2), redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102-82, §1(1), struck out subsec. (d) which read as follows:

“(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision of the judge initially deciding the case shall not be a part of the record.

“(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.”

Subsec. (e). Pub. L. 102-82, §1(2), redesignated subsec. (e) as (c).