

- ited in the mail properly stamped and addressed to the Secretary or his designee;
- (3) be on a form approved by the Secretary;
- (4) contain all information required by the Secretary;
- (5) be sworn to by the individual entitled to compensation or someone on his behalf; and
- (6) except in case of death, be accompanied by a certificate of the physician of the employee stating the nature of the injury and the nature and probable extent of the disability.

The Secretary may waive paragraphs (3)–(6) of this section for reasonable cause shown. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 543; Pub. L. 93–416, §13, Sept. 7, 1974, 88 Stat. 1147.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 768.	Sept. 7, 1916, ch. 458, §18, 39 Stat. 746.
.....	5 U.S.C. 769.	Sept. 7, 1916, ch. 458, §19, 39 Stat. 746.

The words “except as provided in section 788” in former section 768 are omitted as unnecessary as former section 788 dealt with recovery of overpayments after claims were made. Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145). Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Par. (3). Pub. L. 93–416 substituted “approved” for “furnished”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

§ 8122. Time for making claim

(a) An original claim for compensation for disability or death must be filed within 3 years after the injury or death. Compensation for disability or death, including medical care in disability cases, may not be allowed if claim is not filed within that time unless—

- (1) the immediate superior had actual knowledge of the injury or death within 30 days. The knowledge must be such to put the immediate superior reasonably on notice of an on-the-job injury or death; or
- (2) written notice of injury or death as specified in section 8119 of this title was given within 30 days.

(b) In a case of latent disability, the time for filing claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability to his employment. In such a case, the time for giving notice of injury begins to run when the employee is aware, or by the exercise of reasonable diligence should have been aware, that his condition is causally related to his employment, whether or not there is a compensable disability.

(c) The timely filing of a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury.

(d) The time limitations in subsections (a) and (b) of this section do not—

- (1) begin to run against a minor until he reaches 21 years of age or has had a legal representative appointed; or
- (2) run against an incompetent individual while he is incompetent and has no duly appointed legal representative; or
- (3) run against any individual whose failure to comply is excused by the Secretary on the ground that such notice could not be given because of exceptional circumstances.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 544; Pub. L. 90–83, §1(57), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93–416, §14, Sept. 7, 1974, 88 Stat. 1147.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 770.	Sept. 7, 1916, ch. 458, §20, 39 Stat. 747. June 13, 1922, ch. 219, 42 Stat. 650. July 28, 1945, ch. 328, §1, 59 Stat. 503. Sept. 13, 1960, Pub. L. 86–767, §205, 74 Stat. 908.

The last sentence of the Act of June 13, 1922, 42 Stat. 650, is omitted as obsolete.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8122(b), (d)	5 App.: 770.	July 4, 1966, Pub. L. 89–488, §9, 80 Stat. 254.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, §14(1), substituted provisions requiring filing of claims for compensation within three years after death or disability, and setting forth conditions for waiver of filing within required time periods, for provisions requiring claim for death to be made within one year after death and for disability to be made within 60 days after injury and authorizing extension of time for good cause.

Subsec. (c). Pub. L. 93–416, §14(2), substituted provisions relating to timeliness of claim for death when claim for injury was timely filed and death was based on same injury, for provisions relating to waiver of compliance with requirements for giving notice of injury and filing claim for compensation.

Subsec. (d). Pub. L. 93–416, §14(3), substituted “(a) and (b)” for “(a)–(c)”, and added cl. (3).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by section 1(57) of Pub. L. 90–83 not applicable to specified person-

nel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§ 8123. Physical examinations

(a) An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at the times and places as may be reasonably required. The employee may have a physician designated and paid by him present to participate in the examination. If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.

(b) An employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary are necessary and reasonable, including transportation and loss of wages incurred in order to be examined. The expenses, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(c) The Secretary shall fix the fees for examinations held under this section by physicians not employed by or under contract to the United States to furnish medical services to employees. The fees, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(d) If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops. Compensation is not payable while a refusal or obstruction continues, and the period of the refusal or obstruction is deducted from the period for which compensation is payable to the employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 544.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Rows show derivations from 5 U.S.C. 771, 772, and 773(a).

In subsections (a) and (c), the words "duly qualified" in former sections 771 and 772 are omitted as unnecessary in view of the definition of "physician" in section 8101.

In subsection (c) the words "fees for examinations" in former section 773(a) are substituted for "fees or examinations" since the word "or" was erroneously in the 1949 amendment. The words "any sum payable to the employee under section 771 of this title" in former section 773(a) are omitted as unnecessary because the same provision appeared in former section 771, which is carried into subsection (b).

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8124. Findings and award; hearings

(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation under this subchapter after—

(1) considering the claim presented by the beneficiary and the report furnished by the immediate superior; and

(2) completing such investigation as he considers necessary.

(b)(1) Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary under subsection (a) of this section is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary. At the hearing, the claimant is entitled to present evidence in further support of his claim. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of his further decision and any modifications of the award he may make and of the basis of his decision.

(2) In conducting the hearing, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title except as provided by this subchapter, but may conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose, he shall receive such relevant evidence as the claimant adduces and such other evidence as he determines necessary or useful in evaluating the claim.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545; Pub. L. 90-83, §1(58), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row shows derivation from 5 U.S.C. 786.

The last sentence of former section 786 is omitted as surplusage because it is covered by section 8147.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Table with 3 columns: Section of title 5, Source (U.S. Code), Source (Statutes at Large). Row shows section 8124(b) derived from 5 App.: 786(b).

In subsection (b)(1), the words "section 8128(a) of this title" are substituted for "section 37" to reflect the codification of section 37 in title 5, United States Code. The words "a claimant * * * is entitled * * * to a hearing" are substituted for "any claimant * * * shall * * * be afforded an opportunity for a hearing". The words "under subsection (a) of this section" are substituted for "under this section" for clarity. In the second sentence, the words "is entitled to present evidence" are substituted for "shall be afforded an opportunity to present evidence".

In subsection (b)(2), the words "section 554 of this title * * * this subchapter" are substituted for "section