

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 include 5 U.S.C. 771, 772, and 773(a) with their respective legislative history dates and sections.

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 5 U.S.C. 786 derived from Sept. 7, 1916, ch. 458, §36, 39 Stat. 749.

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 8124(b) derived from 5 App.: 786(b) and July 4, 1966, Pub. L. 89-488, §11(b), 80 Stat. 255.

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