

§ 405.823

§ 405.823 Carrier hearing officer.

Any hearing provided for in this subpart shall be conducted by a hearing officer designated by the appropriate official of the carrier.

[39 FR 12097, Apr. 3, 1974. Redesignated at 42 FR 52826, Sept. 30, 1977, and amended at 59 FR 12183, Mar. 16, 1994]

§ 405.824 Disqualification of carrier hearing officer.

A hearing officer shall not conduct a hearing in any case in which he is prejudiced or partial with respect to any party, or if he has any interest in the matter before him. Notice of any objection with respect to the hearing officer who will conduct the hearing shall be made by the objecting party at his earliest opportunity. The hearing officer shall consider such objection and shall, at his discretion, withdraw. If the hearing officer withdraws, the appropriate official of the carrier shall designate another hearing officer to conduct the hearing. If the hearing officer does not withdraw, the objecting party may present his objections to the carrier for consideration at any time prior to the issuance of a decision. The carrier shall review the request and take appropriate action. The fact that a hearing officer is an employee of the carrier may not serve as prima facie cause for disqualification.

[32 FR 18028, Dec. 16, 1967. Redesignated at 42 FR 52826, Sept. 30, 1977, as amended at 59 FR 12183, Mar. 16, 1994]

§ 405.825 Location of carrier hearing.

(a) *Time and place.* The hearing officer shall fix a time and place for the hearing reasonably convenient to the requesting party and not inconsistent with the public interest.

(b) *Adjournment or postponement.* The hearing officer may, for a good and sufficient reason, fix a new time and/or place for the hearing; he may change the time and place for the hearing or adjourn the hearing on his own motion upon reasonable notification to the parties.

[32 FR 18028, Dec. 16, 1967. Redesignated at 42 FR 52826, Sept. 30, 1977, as amended at 59 FR 12183, Mar. 16, 1994]

42 CFR Ch. IV (10-1-10 Edition)

§ 405.826 Notice of carrier hearing.

The notice of hearing is to include notice of the time and place of the hearing; information as to the specific issues to be determined; and the matters on which findings will be made and conclusions will be reached. The notice is to contain sufficient information about the hearing procedure (including the party's right to representation) for effective preparation for the hearing.

[32 FR 18028, Dec. 16, 1967. Redesignated at 42 FR 52826, Sept. 30, 1977, as amended at 59 FR 12183, Mar. 16, 1994]

§ 405.830 Conduct of the carrier hearing.

(a) *General.* Hearings shall be open to the parties and to such other persons as the hearing officer deems necessary and proper for the orderly and efficient conduct of the hearing. The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. The parties shall be provided an opportunity to enter any objection to the inclusion of any document. The order in which evidence and allegations shall be presented and the procedure at the hearing, except as this subpart otherwise expressly provides, shall be at the discretion of the hearing officer and of such nature as to afford the parties a proper hearing.

(b) *Evidence.* Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedures.

(c) *Witnesses.* The hearing officer may examine the witnesses and shall allow the parties or their representatives to do so. If the hearing officer conducts the examination of a witness, he may allow the parties to suggest matters upon which they desire the witness to be questioned, and the hearing officer shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

(d) *Oral argument and written allegations.* The parties, upon their request shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written