

## § 104.32

## 28 CFR Ch. I (7–1–25 Edition)

the right to request a hearing before the Special Master or her designee under § 104.33 of this part. After an eligible claimant has been notified of the presumed award, within 30 days the claimant may either accept the presumed compensation determination as the final determination and request payment, or may instead request a review before the Special Master or her designee pursuant to § 104.33. Claimants found to be ineligible may appeal pursuant to § 104.32.

(c) *Multiple claims from the same family.* The Special Master may treat claims brought by or on behalf of two or more members of the same immediate family as related or consolidated claims for purposes of determining the amount of any award.

### § 104.32 Eligibility review.

Any claimant deemed ineligible by the Claims Evaluator may appeal that decision to the Special Master or her designee by filing an eligibility appeal within 30 days on forms created by the office of the Special Master.

### § 104.33 Hearing.

(a) *Conduct of hearings.* Hearings shall be before the Special Master or her designee. The objective of hearings shall be to permit the claimant to present information or evidence that the claimant believes is necessary to a full understanding of the claim. The claimant may request that the Special Master or her designee review any evidence relevant to the determination of the award, including without limitation: The nature and extent of the claimant's injury; evidence of the claimant's presence at a 9/11 crash site; factors and variables used in calculating economic loss; the identity of the victim's spouse and dependents; the financial needs of the claimant, facts affecting noneconomic loss; and any factual or legal arguments that the claimant contends should affect the award. Claimants shall be entitled to submit any statements or reports in writing. The Special Master or her designee may require authentication of documents, including medical records and reports, and may request and consider information regarding the financial resources and expenses of the victim's family or

other material that the Special Master or her designee deems relevant.

(b) *Location and duration of hearings.* The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The hearings shall be limited in length to a time period determined by the Special Master or her designee.

(c) *Witnesses, counsel, and experts.* Claimants shall be permitted, but not required, to present witnesses, including expert witnesses. The Special Master or her designee shall be permitted to question witnesses and examine the credentials of experts. The claimant shall be entitled to be represented by an attorney in good standing, but it is not necessary that the claimant be represented by an attorney. All testimony shall be taken under oath.

(d) *Waivers.* The Special Master shall have authority and discretion to require any waivers necessary to obtain more individualized information on specific claimants.

(e) *Award Appeals.* For award appeals, the Special Master or her designee shall make a determination whether:

- (1) There was an error in determining the presumptive award, either because the claimant's individual criteria were misapplied or for another reason; or
- (2) The claimant presents extraordinary circumstances not adequately addressed by the presumptive award.

(f) *Determination.* The Special Master shall notify the claimant in writing of the final amount of the award, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination. In notifying the claimant of the final amount of the award, the Special Master may designate the portions or percentages of the final award that are attributable to economic loss and noneconomic loss, respectively, and may provide such other information as appropriate to provide adequate guidance for a court of competent jurisdiction and a personal representative.

### § 104.34 Publication of awards.

The Special Master reserves the right to publicize the amounts of some or all