

agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) Burden of proof

The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) Determination notice

The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 6998 of this title, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) Effective date

The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

(Pub. L. 103-354, title II, §277, Oct. 13, 1994, 108 Stat. 3230.)

§ 6998. Director review of determinations of hearing officers

(a) Requests for Director review

(1) Time for request by appellant

Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 6997 of this title, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) Time for request by agency head

Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 6997 of this title, the head of the agency may make a written request that the Director review the determination.

(b) Determination of Director

The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 6997 of this title, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the

hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) Basis for determination

The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

(d) Equitable relief

Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 7996 of this title and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) Effective date

A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

(Pub. L. 103-354, title II, §278, Oct. 13, 1994, 108 Stat. 3232; Pub. L. 107-171, title I, §1613(j)(2), May 13, 2002, 116 Stat. 221.)

Editorial Notes

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-171 substituted “section 7996 of this title” for “section 1339a of this title”.

§ 6999. Judicial review

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5.

(Pub. L. 103-354, title II, §279, Oct. 13, 1994, 108 Stat. 3233.)

§ 7000. Implementation of final determinations of Division

(a) In general

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.