

KEYWORDS: claim; Equalization Pay

DIGEST: Under Department of Defense Instruction 1340.21, ¶ E7.13, DOHA must receive a request for reconsideration within 30 days of the appeal decision. While DOHA may extend this period for up to 30 additional days for good cause shown, no request for reconsideration may be accepted by DOHA after this time has expired.

CASENO: 07101901

DATE: 10/24/2007

DATE: October 24, 2007

_____)
In Re:)
 [REDACTED]) Claims Case No.07101901
)
Claimant _____)

**CLAIMS APPEALS BOARD
RECONSIDERATION DECISION**

DIGEST

Under Department of Defense Instruction 1340.21, ¶ E7.13, DOHA must receive a request for reconsideration within 30 days of the appeal decision. While DOHA may extend this period for up to 30 additional days for good cause shown, no request for reconsideration may be accepted by DOHA after this time has expired.

DECISION

The daughter of a former member of a guerilla unit active in the Philippine resistance during World War II requests an extension of time to allow her father, the claimant, to request reconsideration of the August 15, 2007, appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 07073005. In the appeal decision, our adjudicators considered a claim for “Equalization Pay” by the claimant for his World War II service. Our

adjudicators disallowed the claim because there is no statutory authority for the United States to pay the claimant the same amount of pay as then received by members of the US Armed Forces.

The appeal decision advised the claimant that in accordance with Department of Defense Instruction 1340.21 (Instruction), ¶ E7.13¹ (May 12, 2004), the claimant had 30 days from the date of the decision to request reconsideration, and that we could extend this period up to an additional 30 days for good cause. The decision provided a fax number to assist the claimant with a timely response. On October 19, 2007, DOHA received a fax message from a person stating she was the daughter of the claimant, requesting additional time to file a reconsideration request. No power of attorney or other evidence of her authority to act for the claimant was attached. The basis for extension was claimant's inability to inform any of his children about the appeal decision due to his age.

Decision

Notwithstanding the issue of whether claimant's daughter had authority to act on his behalf, or whether the basis cited is good cause, there is no authority that would allow us to further extend the time in which the claimant could request reconsideration. The first correspondence DOHA received after issuing the appeal decision was the fax message which arrived here after the time of the maximum extension that DOHA could have granted under the Instruction to receive a claimant's request for reconsideration, assuming good cause.

Conclusion

This Board has no authority to allow additional time for the claimant to file a request for reconsideration. In accordance with Instruction ¶ E7.11,² DOHA's August 15, 2007, appeal decision in DOHA Claim No. 07073005 is the final decision of the Department of Defense in this matter.

Signed: Michael D. Hipple

Michael D. Hipple
Chairman, Claims Appeals Board

Signed: Jean E. Smallin

¹This provision is also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (m).

²This provision is also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (k).

Jean E. Smallin
Member, Claims Appeals Board

Signed: Catherine M. Engstrom

Catherine M. Engstrom
Member, Claims Appeals Board