



**NOTICE REGARDING THE BENEFITS REVIEW BOARD'S
NEW ELECTRONIC FILING AND SERVICE RULE**
(Notice Dated: 02/28/2024)

The Department of Labor recently published a final rule that requires electronic filing (e-filing), and makes acceptance of electronic service (e-service) automatic, by attorneys and lay representatives who represent parties in proceedings before the Benefits Review Board (BRB). See [89 Fed. Reg. 8,533 \(Feb. 8, 2024\)](#). The rule provides an exception to the requirements for good cause shown and self-represented parties.

This new rule is effective on March 11, 2024. By this date, “attorneys and lay representatives must be registered with the BRB’s eFile/eServe system [EFS]—and file all pleadings, exhibits, and other documents through this system” 89 Fed. Reg. at 8,535 (emphasis added). E-filed documents must be in Portable Document format (PDF), and pleadings should be text searchable. Unless the BRB asks for them, paper copies of e-filed documents are not required.

Under the new rule, service may be completed by email, if the person being served consents to such service in writing, or by “[s]ending [the document] to a user registered with [EFS] by filing via this system.” 89 Fed. Reg. at 8,537. Importantly, “[a] person who registers to use [EFS] is deemed to have consented to accept service through the system.” *Id.* “Service by electronic means is effected on sending.” *Id.* Unless the serving party receives notice that the party served did not receive the document, “[a] document filed via [EFS] is considered received by the registered users on the date it is sent by the system,” and “[a] document served via electronic mail is considered received by the recipient on the date it is sent.” *Id.* A notice of appeal e-filed via EFS “is considered received by the office of the Clerk of the Board as of the date and time recorded by the system” *Id.*

Exceptions or exemptions are few, but important. *First*, **self-represented parties** may file pleadings, exhibits, and other documents in electronic or nonelectronic form. *Second*, attorneys and lay representatives may seek an exemption for good cause shown. In making such a request, the representative “must include a detailed explanation why e-filing or acceptance of e-service should not be required.” 89 Fed. Reg. at 8,537. If a person is “adversely affected by a technical failure in connection with filing or receipt of an electronic document,” they “may seek appropriate relief from the Board” *Id.* Should “a technical malfunction or other issue prevent[] access to the Board’s case management system for a protracted period, the Board by special order may provide appropriate relief pending restoration of electronic access.” *Id.*

The BRB urges all attorney and lay representatives who practice before the agency and who do not currently e-file to become familiar with EFS and the new rule in advance of it going into effect on **March 11, 2024**. If you do not yet have an EFS account, you may create one at <https://efile.dol.gov>.

Helpful User Guidance: Should you experience difficulty establishing your account, you can find helpful user guides, video tutorials, and answers to frequently asked questions at <https://efile.dol.gov/support>. You may also contact the Login.gov or eFile and eServe Help Desks via <https://efile.dol.gov/contact>.