

PART III
PROCEDURAL ISSUES

C. PAYMENT OF BENEFITS

2. UNDER THE 1981 AMENDMENTS TO THE ACT

c. Approval Under Section 435

The second requirement for transfer under the 1981 Amendments is that the claim must be approved under Section 435 of the Reform Act, 30 U.S.C. §945. A Part C or Section 415, 30 U.S.C. §925, transition period claim pending or denied prior to March 1, 1978, is automatically reviewed under Section 435. On the other hand, Section 435 requires a Part B claimant to make a specific request for review of the pending or denied Part B claim, absent which claimant waives his right to further consideration of the claim under the Reform Act. 20 C.F.R. §410.704(d); **Chadwick v. Island Creek Coal Co.**, 7 BLR 1-883 (1985), *aff'd*, 8 BLR 1-447 (1986)(en banc recon.). See also Desk Book Part III.C.2.c.

CASE LISTINGS

[claimant not represented by attorney at the time he received election card not "good cause" under 20 C.F.R. §410.704(d) for failing to elect review under Section 435 of denied Part C claim] **Bolling v. Old Ben Coal Co.**, 8 BLR 1-133 (1985).

[case remanded for determination if evidence sufficient to counter Director's that claimant did not request Section 435 review by returning election card or other equivalent documents] **Kinder v. Kaiser Steel Corp.**, 8 BLR 1-253 (1985).

DIGESTS

Board rejects employer's contention that Section 435 of the Act, 30 U.S.C. §945, provides for automatic review of all denied pre-1977 Act Part B claims. Section 435 requires a denied Part B claimant to make a specific request for review of his denied Part B claim, absent which he waives his right to further consideration of that claim under the Reform Act. See 20 C.F.R. §410.704(d). **Chadwick v. Island Creek Coal Co.**, 7 BLR 1-883 (1985), *aff'd*, 8 BLR 1-447 (1986)(en banc recon.).

