

§ 410.629e

(2) Except as indicated in paragraph (b)(3) of this section, the Commissioner's interpretation of the law is not in dispute; and

(3) The sole issue(s) in dispute is the application of a statutory provision(s) which is described therein and which is alleged to be unconstitutional by the party requesting use of such process; and

(4) Except for the provision challenged, the right(s) of the party is established; and

(5) The determination or decision made by the Commissioner is final for purposes of section 205(g) of the Act.

[40 FR 53388, Nov. 18, 1975, as amended at 62 FR 38453, July 18, 1997]

§ 410.629e Expedited appeals process; effect of agreement.

The agreement described in § 410.629d, when signed, shall constitute a waiver by the parties and the Commissioner with respect to the need of the parties to pursue the remaining steps of the administrative appeals process, and the period for filing a civil action in a district court of the United States, as provided in section 205(g) of the Social Security Act, shall begin as of the date of receipt of notice by the party (parties) that the agreement has been signed by the authorized representative of the Commissioner. Any civil action under the expedited appeals process must be filed within 60 days after the date of receipt of notice (a signed copy of the agreement will be mailed to the party (parties) and will constitute notice) that the agreement has been signed by the Commissioner's authorized representative. For purposes of this section, the date of receipt of notice of signing shall be presumed to be 5 days after the date of the notice, unless there is a reasonable showing to the contrary.

[49 FR 46369, Nov. 26, 1984, as amended at 62 FR 38453, July 18, 1997]

§ 410.629f Effect of a request that does not result in agreement.

If a request for the expedited appeals process does not meet all the conditions for the use of the process, the Commissioner shall so advise the party (parties) and shall treat the request as a request for reconsideration, a hear-

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ing, or Appeals Council review, whichever is appropriate.

[40 FR 53388, Nov. 18, 1975, as amended at 62 FR 38453, July 18, 1997]

§ 410.630 Hearing; right to hearing.

An individual referred to in § 410.632 or § 410.633 who has filed a written request for a hearing under the provisions in § 410.631 has a right to a hearing if:

(a) An initial determination and reconsideration of the determination have been made by the Social Security Administration concerning a matter designated in § 410.610;

(b) An initial determination denying waiver of adjustment of recovery of an overpayment based on a personal conference has been made by the Social Security Administration (see § 410.561a); or

(c) An initial determination denying waiver of adjustment or recovery of an overpayment based on a review of the written evidence of record has been made by the Social Security Administration (see § 410.561a) and the determination was made concurrent with, or subsequent to, our reconsideration determination regarding the underlying overpayment but before an administrative law judge holds a hearing.

[61 FR 56133, Oct. 31, 1996]

§ 410.631 Time and place of filing request.

The request for hearing shall be made in writing and filed at an office of the presiding officer, or the Appeals Council. Except where the time is extended as provided in § 410.669, the request for hearing must be filed:

(a) Within 60 days after the date of receipt of notice of the reconsidered determination by such individual. For purposes of this section, the date of receipt of notice of the reconsidered determinations shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary; or

(b) Where an effective date (not more than 30 days later than the date of mailing) is expressly indicated in such notice, within 60 days after such effective date.

[41 FR 47918, Nov. 1, 1976]