

§ 410.638

Law Judge may, in his discretion, either on the application of a party or his own motion, in addition to the matters brought before him by the request for hearing, give notice that he will also consider any specified new issue (see § 410.610) whether pertinent to the same or a related matter, and whether arising subsequent to the request for hearing, which may affect the rights of such party to benefits under this part even though the Administration has not made an initial and reconsidered determination with respect to such new issue: *Provided*, That notice of the time and place of the hearing on any new issue shall, unless waived, be given to the parties within the time and manner specified in § 410.636: *And provided further*, That the determination involved is not one within the jurisdiction of a State agency under a Federal-State agreement entered into pursuant to section 413(b) of the Act. Upon the giving of such notice, the Administrative Law Judge shall, except as otherwise provided, proceed to hearing on such new issue in the same manner as he would on an issue on which an initial and reconsidered determination has been made by the Administration and a hearing requested with respect thereto by a party entitled to such hearing.

§ 410.638 Change of time and place for hearing.

The Administrative Law Judge may change the time and place for the hearing, either on his own motion or for good cause shown by a party. The Administrative Law Judge may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice to the party of the decision in the case. Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or a reopening of the hearing.

§ 410.639 Subpenas.

When reasonably necessary for the full presentation of a case, an Administrative Law Judge (formerly called "hearing examiner") or a member of the Appeals Council, may, either upon his own motion or upon the request of

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a party, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. Parties who desire the issuance of a subpoena shall, not less than 5 days prior to the time fixed for the hearing, file with the Administrative Law Judge or at a district office of the Administration a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witnesses or documents and whether such facts could be established by other evidence without the use of a subpoena. Subpoenas, as provided for above, shall be issued in the name of the Commissioner, and the Administration shall pay the cost of the issuance and the fees and mileage of any witness so subpoenaed, as provided in section 205(d) of the Social Security Act.

[37 FR 20652, Sept. 30, 1972, as amended at 62 FR 38453, July 18, 1997]

§ 410.640 Conduct of hearing.

Hearings shall be open to the parties and to such other persons as the Administrative Law Judge deems necessary and proper. The Administrative Law Judge shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the Administrative Law Judge believes that there is relevant and material evidence available which has not been presented at the hearing, the Administrative Law Judge may adjourn the hearing or, at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedure at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the Administrative Law Judge