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20 CFR Ch. III (4-1-01 Edition)

§416.1433 How to request a hearing before an administrative law judge.

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

- (1) Your name and social security number;
- (2) The name and social security number of your spouse, if any;
- (3) The reasons you disagree with the previous determination or decision;
- (4) A statement of additional evidence to be submitted and the date you will submit it; and
- (5) The name and address of any designated representative.

(b) *When and where to file.* The request must be filed at one of our offices within 60 days after the date you receive notice of the previous determination or decision (or within the extended time period if we extend the time as provided in paragraph (c) of this section).

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed within the stated time period. You may file your request for an extension of time at one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in §416.1411.

[45 FR 52096, Aug. 5, 1980, as amended at 51 FR 307, Jan. 3, 1986]

§416.1435 Submitting evidence prior to a hearing before an administrative law judge.

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

[45 FR 52096, Aug. 5, 1980, as amended at 51 FR 307, Jan. 3, 1986]

§416.1436 Time and place for a hearing before an administrative law judge.

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision. Hearings are held in the 50 States, the District of Columbia and the Northern Mariana Islands.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. If possible, the request should be in writing. The administrative law judge will change the time or place of the hearing if you have good cause, as determined under paragraphs (c) and (d) of this section. Section 416.1438 provides procedures we will follow when you do not respond to a notice of hearing.

(c) The administrative law judge will find good cause for changing the time or place of your scheduled hearing and will reschedule your hearing if your reason is one of the following circumstances and is supported by the evidence:

(1) You or your representative are unable to attend or to travel to the scheduled hearing because of a serious physical or mental condition, incapacitating injury, or death in the family; or

(2) Severe weather conditions make it impossible to travel to the hearing.

(d) In determining whether good cause exists in circumstances other than those set out in paragraph (c) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled

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hearings, delays which might occur in rescheduling your hearing, and whether any prior changes were granted to you. Examples of such other circumstances, which you might give for requesting a change in the time or place of the hearing, include, but are not limited to, the following:

(1) You have attempted to obtain a representative but need additional time;

(2) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(3) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(4) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(5) Transportation is not readily available for you to travel to the hearing;

(6) You live closer to another hearing site; or

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of a physical, mental, educational, or linguistic limitation (including any lack of facility with the English language) which you may have.

[45 FR 52096, Aug. 5, 1980, as amended at 50 FR 21438, May 24, 1985; 51 FR 307, Jan. 3, 1986; 59 FR 1637, Jan. 12, 1994]

§ 416.1438 Notice of a hearing before an administrative law judge.

After the administrative law judge sets the time and place of the hearing, notice of the hearing will be mailed to the parties at their last known addresses, or given by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 20 days before the hearing. The notice of hearing will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings. The notice will also contain an explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hear-

ing without good cause the ALJ may dismiss your hearing request, and other information about the scheduling and conduct of your hearing. If you or your representative do not acknowledge receipt of the notice of hearing, we will attempt to contact you for an explanation. If you tell us that you did not receive the notice of hearing, an amended notice will be sent to you by certified mail. See § 416.1436 for the procedures we will follow in deciding whether the time or place of your scheduled hearing will be changed if you do not respond to the notice of hearing.

[50 FR 21439, May 24, 1985, as amended at 51 FR 307, Jan. 3, 1986]

§ 416.1439 Objections to the issues.

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objections. The administrative law judge shall make a decision on your objections either in writing or at the hearing.

§ 416.1440 Disqualification of the administrative law judge.

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objections and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Associate Commissioner for Hearings and Appeals, or his or her delegate, will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.