

§ 422.203

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

(d) Part B of title IV of the Federal Mine Safety and Health Act of 1977 as amended, §§ 410.630 through 410.670.

[41 FR 53791, Dec. 9, 1976, as amended at 44 FR 34942, June 18, 1979; 54 FR 4268, Jan. 30, 1989]

§ 422.203 Hearings.

(a) *Right to request a hearing.* (1) After a reconsidered or a revised determination (i) of a claim for benefits or any other right under title II of the Social Security Act; or (ii) of eligibility or amount of benefits or any other matter under title XVI of the Act, except where an initial or reconsidered determination involving an adverse action is revised, after such revised determination has been reconsidered; or (iii) as to entitlement under part A or part B of title XVIII of the Act, or as to the amount of benefits under part A of such title XVIII (where the amount in controversy is \$100 or more); or of health services to be provided by a health maintenance organization without additional costs (where the amount in controversy is \$100 or more); or as to the amount of benefits under part B of title XVIII (where the amount in controversy is \$500 or more); or as to a determination by a peer review organization (PRO) under title XI (where the amount in controversy is \$200 or more); or as to certain determinations made under section 1154, 1842(1), 1866(f)(2), or 1879 of the Act; any party to such a determination may, pursuant to the applicable section of the Act, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under part B of title IV (Black Lung benefits) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 921 through 925), a party to the determination may file a written request for hearing on the determination.

(2) After (i) a reconsidered or revised determination that an institution, facility, agency, or clinic does not qualify as a provider of services, or (ii) a determination terminating an agreement with a provider of services, such institution, facility, agency, or clinic may, pursuant to section 1866 of the Act, file a written request for a hearing on the determination.

(3) After (i) a reconsidered or revised determination that an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility or other person does not meet the conditions for coverage of its services or (ii) a determination that it no longer meets such conditions has been made, such laboratory, supplier, treatment facility may, under 42 CFR 498.40 of this chapter, file a written request for a hearing on the determination. (For hearing rights of independent laboratories, suppliers of portable X-ray services, and end-stage renal disease treatment facilities and other person see 42 CFR 498.5.)

(b) *Request for hearing.* (1) A request for a hearing under paragraph (a) of this section may be made on Form HA-501, "Request for Hearing," or Form HA-501.1, "Request for Hearing, part A Hospital Insurance Benefits," or by any other writing requesting a hearing. The request shall be filed at an office of the Social Security Administration, usually a district office or a branch office, or at the Veterans' Administration Regional Office in the Philippines (except in title XVI cases), or at a hearing office of the Office of Hearings and Appeals, or with the Appeals Council. A qualified railroad retirement beneficiary may, if he prefers, file a request for a hearing under part A of title XVIII with the Railroad Retirement Board. Form HA-501 may be obtained from any social security district office or branch office, from the Office of Hearings and Appeals, Social Security Administration, P.O. Box 3200, Arlington, VA 22203, or from any other office where a request for a hearing may be filed.

(2) Unless for good cause shown an extension of time has been granted, a request for hearing must be filed within 60 days after the receipt of the notice of the reconsidered or revised determination, or after an initial determination described in 42 CFR 498.3 (b) and (c) (see §§ 404.933, 410.631, and 416.1433 of this chapter and 42 CFR 405.722, 498.40, and 417.260.)

(c) *Hearing decision or other action.* Generally, the administrative law judge will either decide the case after hearing (unless hearing is waived) or, if appropriate, dismiss the request for

hearing. With respect to a hearing on a determination under paragraph (a)(1) of this section, the administrative law judge may certify the case with a recommended decision to the Appeals Council for decision. If the determination on which the hearing request is based relates to the amount of benefits under part A or B of title XVIII of the Act, to health services to be provided by a health maintenance organization without additional costs, or to PRO determinations, the administrative law judge shall dismiss the request for hearing if he or she finds that the amount in controversy is less than \$100 for appeals arising under part A or concerning health maintenance organization benefits; less than \$200 for appeals arising from PRO determinations; and less than \$500 for appeals arising under part B. Hearing decisions must be based on the evidence of record, under applicable provisions of the law and regulations and appropriate precedents.

[41 FR 53791, Dec. 9, 1976, as amended at 44 FR 34942, June 18, 1979; 51 FR 308, Jan. 3, 1986; 54 FR 4268, Jan. 30, 1989]

§ 422.205 Review by Appeals Council.

(a) Any party to a hearing decision or dismissal may request a review of such action by the Appeals Council. The Health Care Financing Administration or, as appropriate, the Office of the Inspector General is a party to a hearing on a determination under § 422.203 (a)(2) and (a)(3) and to administrative appeals involving matters under section 1128(b)(6) of the Act (see 42 CFR 498.42). This request may be made on Form HA-520, "Request for Review of Hearing Decision/Order," or by any other writing specifically requesting review. Form HA-520 may be obtained from any social security district office or branch office, from the Office of Hearings and Appeals Social Security Administration, P.O. Box 3200, Arlington, VA 22203, or at any other office where a request for a hearing may be filed. (For time and place of filing, see §§ 404.968, 410.661, and 416.1468 of this chapter, and 42 CFR 405.724, 498.82 and 417.261.)

(b) Whenever the Appeals Council reviews a hearing decision under §§ 404.967 or 404.969, 410.662, 416.1467, or 416.1469 of

this chapter, or 42 CFR 405.724 or 417.261 or 473.46 and the claimant does not appear personally or through representation before the Council to present oral argument, such review will be conducted by a panel of not less than two members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman of the Council. In the event of disagreement between a panel composed of only two members, the Chairman or Deputy Chairman, or his delegate, who must be a member of the Council, shall participate as a third member of the panel. When the claimant appears in person or through representation before the Council in the location designated by the Council, the review will be conducted by a panel of not less than three members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman. Concurrence of a majority of a panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (e) of this section.

(c) The denial of a request for review of a hearing decision concerning a determination under § 422.203(a)(1) shall be by such appeals officer or appeals officers or by such member or members of the Appeals Council as may be designated in the manner prescribed by the Chair or Deputy Chair. The denial of a request for review of a hearing dismissal, the dismissal of a request for review, the denial of a request for review of a hearing decision whenever such hearing decision after such denial would not be subject to judicial review as explained in § 422.210(a), or the refusal of a request to reopen a hearing or Appeals Council decision concerning a determination under § 422.203(a)(1) shall be by such member or members of the Appeals Council as may be designated in the manner prescribed by the Chair or Deputy Chair.

(d) A review or a denial of review of a hearing decision or a dismissal of a request for review with respect to requests by parties under 42 CFR 498.82 or 1001.128 in accordance with § 498.83 will be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S.