



November 30, 2011

MEMORANDUM

FROM: Glynn F. Voisin
Chief Administrative Law Judge
New Orleans Hearing Office

TO: Claimants' Representatives

SUBJECT: BEST PRACTICES FOR CLAIMANTS' REPRESENTATIVES

Our mission is to provide social security claimants with timely and legally sufficient hearings and decisions. In order that we may provide the very best service to the claimants and your clients, the judges of the New Orleans Hearing Office request the following:

IN GENERAL:

Obtain as much information as possible from our website (ssa.gov)

This is a general rule for all dealings with SSA. At the hearing level, the majority of claimants are represented, and we encourage our staff to cooperate as much as possible with requests for information or assistance from representatives. However, every personal contact with hearing office staff precludes the staff from performing other responsibilities relating to other hearing requests. Every five minutes that is saved on individual claims converts to thousands of saved hours, which can be devoted to processing other claims.

Timely submit the form SSA-1696 and fee agreement.

If applicable, obtain and submit withdrawals and waivers from prior representatives to avoid possible delay in payment.

Establish a good working relationship with hearing office management and staff.

You should establish a good working relationship with the Hearing Office Chief Administrative Law Judge, the Hearing Office Director, the Group Supervisors and hearing office staff. Open dialogue allows both representatives and the hearing office to exchange suggestions to improve service in the local area.

Timely alert the hearing office of any change of address or phone number for either yourself or the claimant.

This would help reduce duplication of effort by the hearing office when hearing notices are sent to either individual.

Submit updated form SSA-827 with the request for hearing.

If the hearing office needs to request information on short notice for a possible on-the-record (OTR) decision or a dire need review, or for any other reason, it is very helpful to have updated release forms already in the file.

Even if a case is pending at the hearing level, a form SSA-1695 should be submitted to the SSA field office, not the hearing office.

This form deals solely with payment to the representative and contains personal information, including a representative's Social Security number. If a SSA-1695 is received at the hearing office, it is immediately forwarded to the SSA field office for processing. Submitting this form to the SSA field office initially would significantly reduce the time hearing office staff spends forwarding documentation, and reduce the likelihood that the form will either be lost or improperly associated with the claimant's file.

PRIOR TO AN ADMINISTRATIVE LAW JUDGE HEARING

Under 20 CFR §§ 404.935 and 416.1435, **claimants have an existing duty to submit additional evidence with a Request for Hearing or within 10 days of submitting the request.** Therefore, we encourage all representatives to review the file and submit evidence as early in the hearing process as possible. **Do not wait until the case is scheduled to submit evidence.** ODAR is aggressively screening cases for potential "on the record" situations and updated evidence is helpful in identifying cases that may be reversed without the need for a hearing. At the same time, we also encourage representatives to be mindful of hearing office resources required to burn CDs, and ask that representatives not request excess copies of CDs.

Submitting Evidence

Do not submit duplicative evidence.

This is a problematic and time-consuming issue dealt with at the hearing level, which significantly delays preparation of cases for hearing. Hearing office staff often spend several hours sorting out duplicate evidence. The sooner a case is prepared and exhibited, the sooner the case can be scheduled.

Submit evidence as far in advance of the hearing as possible, using ELECTRONIC RECORDS EXPRESS.

Up to 200 pages at one time can be faxed into the electronic folder using the fax number and bar code supplied with the Acknowledgment of Hearing notice. However, we do recommend smaller submissions when possible (less than 30 pages), as smaller exhibits open more quickly. Early submission (more than 10 working days before hearing) allows hearing office staff to exhibit the evidence and ensures that the claimant's copy of the file includes a copy of all the evidence that has been received. It also gives the ALJ time to review all the evidence, and helps to ensure that all relevant evidence is timely provided to experts scheduled to appear at hearing.

Before faxing evidence, check to ensure the evidence you are submitting matches the claimant.

This simple precaution would significantly reduce the time the hearing office spends contacting representatives and re-associating evidence with the appropriate file.

Make sure the barcode is the first item faxed in order to ensure proper identification of all records.

If you do not have a barcode for a particular case, please ask the hearing office to provide you with one. Bar codes may be photocopied and used more than once.

Submit a cover letter with the evidence identifying what is being submitted and the date of the evidence.

Submitting evidence with a cover letter and the dates of the evidence will assist hearing office staff in identifying duplicates and in exhibiting the records.

Avoid submitting voluminous evidence at the last minute.

This does not provide sufficient time for hearing office staff to associate the evidence with the file, or provide the judge and experts adequate time to review the evidence.

When faxing evidence from different sources into the electronic folder, separate the sources by placing a bar code as the first document for each source and submit in chronological order.

This assists hearing office staff in reviewing the evidence for duplicates and in exhibiting the records.

Do not submit medical evidence with non-medical evidence documents such as appointment of representative forms or fee agreements.

Medical and non-medical documents should be submitted separately. Because these documents are included in different sections of the folder, it requires more time to separate documents if they are submitted together.

Issues to Address and Supporting Evidence

When possible, obtain a medical source statement from a treating source that is supported by the evidence which identifies the limitations imposed by the claimant's impairments.

Submit with supporting evidence or direct our attention to supporting evidence already in the file.

Treating source statements can greatly assist the judge in assessing Step 3 of the sequential evaluation and the claimant's residual functional capacity.

Deal with employment (substantial gainful activity, unsuccessful work attempts, trial work periods, sheltered work environments, etc.) and earnings issues in a pre-hearing memorandum or at the hearing.

Be sure to distinguish long term disability, vacation, unemployment income, veteran's / military earnings, wounded warrior program or bonus pay which may appear as earnings after alleged onset.

Deal with worker's compensation issues in a pre-hearing memorandum or at the hearing.

If there has been a settlement, provide appropriate proof.

Submit concise pre-hearing briefs whenever possible.

This assists the judge in preparing for the hearing. **Include page numbers of exhibits in your briefs.**

Submitting On-The-Record (OTR) Requests

Clearly label an OTR request "OTR Request," and submit as early as possible (but only when a request is appropriate). OTR requests are not appropriate in every case, and should be

requested only when the evidence in the record supports a fully favorable outcome from the alleged onset date.

Identify evidence that supports OTR requests.

OTR requests should include a concise summary at the beginning of the brief outlining the argument, followed by a more detailed explanation specifically directing the judge's attention to evidence supporting a favorable decision.

Make sure evidence supports onset date.

Onset issues are the most frequent reason an OTR request cannot be granted.

Working with Attorney Adjudicators

When contacted, work with attorney adjudicators to expedite decisions in appropriate cases.

Attorney Adjudicators review and screen cases for OTR decisions. Currently, attorney adjudicators have the authority to issue a fully favorable decision OTR when it is warranted. If you are contacted by the hearing office attorney regarding substantial gainful activity or onset issues in a particular case, discuss the matter with the attorney to see if the issue can be resolved without the need for a hearing.

Submitting Compassionate Allowance, Dire Need, Terminal Illness and Military / Wounded Warrior requests, or information regarding incarcerated individuals

Notify the hearing office when the claimant has a terminal (TERI) condition, is homeless, or is in dire need, and include appropriate documentation supporting these allegations. Notifying the hearing office of these circumstances can significantly expedite the processing of a case, if the allegation is supported. The criteria and reference links for critical case processing can be found in our provisions in [HALLEX I-2-1-40 \(Critical Cases\)](#).

With the request and documentation supporting the allegation, submit updated evidence supporting the claim for an OTR review.

If a dire need case can be awarded without the need for a hearing, this works to the advantage of both the claimant and the hearing office.

If claimant is incarcerated, provide the hearing office with the address and telephone number of the facility and the release date.

There are many difficulties that arise when an individual who has requested a hearing is incarcerated. For example, if an in-person hearing must be conducted, there are varying rules and procedures depending on the facility in which the claimant is incarcerated. Some claimants are transferred after a hearing has been scheduled but before the hearing has been held. For these reasons, it is very important that the hearing office is apprised at all times of the status of an incarcerated claimant. Telephonic hearings should also be considered to expedite the proceedings.

Scheduling Hearings

Do not request postponements unless essential.

Be flexible with providing dates and times for hearings, and request postponements in writing with supporting documentation in a timely fashion wherever possible. When you have already agreed to the date and time of a scheduled hearing, avoid requesting a postponement unless essential.

When representing a child, be prepared to have someone available to look after the child, if possible, after he or she testifies or if he or she does not testify.

Representatives should avoid keeping the child in the hearing room when it will disrupt the hearing process or is otherwise not appropriate.

AFTER AN ADMINISTRATIVE LAW JUDGE HEARING:

Submit post hearing evidence as soon as possible, with a written brief identifying how the evidence supports a favorable decision.

Notify the hearing office of the submission. This will assist the judge in reviewing the records and appropriately focus attention on the information supporting your arguments, which results in the issuance of a timely decision.

Whenever possible, submit fee petitions within 60 days of a decision or as soon as possible after services have been terminated or withdrawn.

Submitting fee documents within this time frame will have a significant impact on the time a representative waits for payment. This reduces the number of follow ups necessary to determine if a fee petition is going to be submitted, allowing the judge to act on the fee authorization at an earlier date. It reduces the likelihood that funds withheld for direct payment will be released to the claimant, and reduces the wait time if administrative review of an authorized fee is requested.

ACTIONS BEFORE THE APPEALS COUNCIL:

If requesting a copy of the record, submit a clear request.

The request should be clearly stated **at the beginning** of your correspondence to facilitate support staff screening and action on your request.

Submit any additional evidence or comments with the request for review.

For internal review and association purposes, submitting all evidence at the same time would be very helpful.

If you have additional evidence, explain how it is material to the period at issue.

In regard to new evidence, the Appeals Council applies [20 CFR §§ 404.970](#) and [416.1470](#).

Contentions should be specific.

It is always a good practice to concisely focus your arguments for the judge. We recommend using 2,000 words or less if possible.

Contentions do not need to include a recitation of the jurisdictional history or evidence generally, unless related to a specific point of contention.

The record is already before the Appeals Council.

Cite to the record.

Include page numbers of exhibits.

Do not make automatic, multiple requests for the status of a request for review.

You can verify that the Appeals Council has received the request through your local Social Security office, the hearing office or by calling our Congressional and Public Affairs Branch staff (703-605-8000) or our general inquiries staff at the toll-free telephone number (800-772-1213).

Be specific in requesting an extension of time.

Requests for extension of time should explain how much additional time is needed and why the request should be granted.

Thank you for your continued cooperation.