

## § 405.1

## 20 CFR Ch. III (4–1–10 Edition)

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### Subpart A—Introduction, General Description, and Definitions

#### § 405.1 Introduction.

(a) *General.* This part explains our procedures for adjudicating the disability portion of initial claims for entitlement to benefits based on disability under title II of the Social Security Act or for eligibility for supplemental security income payments based on disability or blindness under title XVI of the Act. All adjudicators derive their authority from the Commissioner and have the authority to find facts and, if appropriate, to conduct a fair and impartial hearing in accordance with section 205(b) of the Act.

(b) *Explanation of the administrative review process.* Generally, the administrative review process consists of several steps, which must be requested within certain time periods. The administrative review process steps are:

(1) *Initial determination.* When you claim disability benefits and a period of disability under title II of the Act or eligibility for disability or blindness payments under title XVI of the Act, we will make an initial determination on your claim. See §§ 404.902–.903 and 416.1402–.1403 of this chapter for a description of what is and what is not an initial determination.

(2) *Review of initial determination.* If you are dissatisfied with our initial determination, you may request review by a Federal reviewing official.

(3) *Hearing before an administrative law judge.* If you are dissatisfied with a decision made by the Federal reviewing official, you may request a hearing before an administrative law judge. The administrative law judge's decision becomes our final decision, unless your claim is referred to the Decision Review Board.

(4) *Decision Review Board.* When the Decision Review Board reviews your claim and issues a decision, that decision is our final decision.

(5) *Federal court review.* If you are dissatisfied with our final decision as described in paragraphs (b)(3) and (4) of this section, you may request judicial

review by filing an action in Federal district court.

(c) *Nature of the administrative review process—(1) Non-adversarial proceeding.* In making a determination or decision on your claim, we conduct the administrative review process in a non-adversarial manner.

(2) *Evidence considered and right to representation.* Subject to the provisions of §§ 405.331 and 405.430, you may present and we will consider information in support of your claim. We also will consider any relevant information that we have in our records. To help you present your claim to us, you may have someone represent you, including an attorney.

(3) *Evidentiary standards applied.* When we make a determination or decision on your disability claim, we will apply a preponderance of the evidence standard, except that the Decision Review Board will review findings of fact under the substantial evidence standard.

(4) *Clarity of determination or decision.* When we adjudicate your claim, the notice of our determination or decision will explain in clear and understandable language the specific reasons for allowing or denying your claim.

(5) *Consequences of failing to timely follow this administrative appeals process.* If you do not seek timely review at the next step required by these procedures, you will lose your right to further administrative review and your right to judicial review, unless you can show good cause under § 405.20 for your failure to request timely review.

(d) *Expedited appeals process.* You may use the expedited appeals process if you have no dispute with our findings of fact and our application and interpretation of the controlling law, but you believe that a part of that law is unconstitutional. This process permits you to seek our agreement to allow you to go directly to a Federal district court so that the constitutional issue(s) may be resolved.

#### § 405.5 Definitions.

As used in this part:

*Act* means the Social Security Act, as amended.

*Administrative appeals judge* means an official, other than an administrative