§ 405.240 Sunset of this subpart.

(a) If you filed a request for review by a Federal reviewing official and we transferred your claim to the Office of the Federal Reviewing Official on or before March 23, 2008, the Federal reviewing official will review and issue a decision on your claim.

(b) If you have received a final determination under subpart B of this part, we will process a request for additional administrative review not described in paragraph (a) of this section as either a request for reconsideration by the State agency or a request for hearing before an administrative law judge if your State uses the testing procedures under §§404.906 and 416.1406 of this chapter. In any hearing before an administrative law judge on your claim, and in any further review of your claim, we will follow the procedures in this part.

(c) This subpart will no longer be effective the day after a Federal reviewing official issues a decision on the last of the claims accepted for review under paragraph (a) of this section.

(d) If compelling evidence shows that the Federal reviewing official process is efficient, effective, and sustainable given available Agency resources, the Commissioner may reinstate the Federal reviewing official process by publishing a notice of proposed rulemaking and final rule in the Federal Register.

§ 405.301 Hearing before an administrative law judge—general.

(a) This subpart explains what to do if you are dissatisfied with a decision by a Federal reviewing official, a reconsidered determination you received as a result of §405.240 of this part, or an initial determination subject to a hearing by an administrative law judge under the procedures in this part as a result of §404.906(b)(4) or §416.1406(b)(4) of this chapter. In it, we describe how you may ask for a hearing before an administrative law judge, and what procedures we will follow when you ask for a hearing.

(b) The Commissioner will appoint an administrative law judge to conduct the hearing. If circumstances warrant after making the appointment (for example, if the administrative law judge becomes unavailable), the Commissioner may assign your claim to another administrative law judge.

(c) You may examine the evidence used in making the decision or determination under review, submit evidence, appear at the hearing, and present and question witnesses. The administrative law judge may ask you questions and will issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file, any new evidence that is timely submitted, and any evidence that the administrative law judge obtains.

§ 405.305 Availability of a hearing before an administrative law judge.

You may request a hearing before an administrative law judge if you are dissatisfied with a Federal reviewing official’s decision on your disability claim, the reconsidered determination you received as a result of §405.240 of this part, or an initial determination subject to a hearing by an administrative law judge under the procedures in this part as a result of §404.906(b)(4) or §416.1406(b)(4) of this chapter.

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

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

(1) Your name and social security number,

(2) If you have filed a claim for benefits based on disability under title II of the Act under an account other than your own, the name and social security number of the individual making the claim.

(3) If you are represented by an attorney or are a minor, a statement that will be filed with the Social Security Administration that represents your interest.

(4) Other information that you think is necessary to support your request for a hearing.

(b) Written response. The Commissioner will send you a written response to your request for a hearing. The response will state whether your request is accepted or denied and the reasons why.

(c) Notice of hearing. The Commissioner will send you a notice of hearing that contains information about the administrative law judge who will conduct the hearing.

(d) Date of hearing. The Commissioner will schedule the hearing on a date and at a time and location that are convenient for you.

(e) Prehearing conference. The Commissioner will schedule a prehearing conference with you and the claims representative to discuss the issues you want to present at the hearing.

(f) Filing evidence. You may file evidence with the Hearing Office at least 10 days before the hearing.

(g) Discovery. The Commissioner will allow you to take discovery from the claims representative before the hearing.

(h) Conduct of the hearing. The administrative law judge will conduct the hearing in accordance with the regulations in this part.

(i) Decision. The administrative law judge will issue a decision based on the hearing record. You may appeal the decision to the Appeals Council.
number of the wage earner under whose account you are filing,
(3) The specific reasons you disagree with the decision made by the Federal reviewing official,
(4) A statement of the medically determinable impairment(s) that you believe prevents you from working,
(5) Additional evidence that you have available to you, and
(6) The name and address of your representative, if any.

(b) Time limit for filing request. An administrative law judge will conduct a hearing if you request one in writing no later than 60 days after the date you receive notice of the Federal reviewing official’s decision, the reconsidered determination you received as a result of §405.240 of this part, or the initial determination subject to a hearing by an administrative law judge under the procedures in this part as a result of §404.906(b)(4) or §416.1406(b)(4) of this chapter (or within the extended time period if we extend the time as provided in paragraph (d) of this section). The administrative law judge may decide your disability claim without an oral hearing under the circumstances described in §405.340.

(c) Place for filing request. You should submit a written request for a hearing at one of our offices. If you have a disability claim under title II of the Act, you may also file the request at the Veterans Administration Regional Office in the Philippines, or if you have 60 or more years of service, or at least five years of service accruing after December 31, 1995, in the railroad industry, an office of the Railroad Retirement Board.

(d) Extension of time to request a hearing. If you want a hearing before an administrative law judge, but you do not request it timely, you may ask the administrative law judge to decide your claim without a hearing, as described in §405.340(b). The administrative law judge may grant the request unless he or she believes that a hearing is necessary. You may withdraw this waiver of your right to appear at a hearing any time before notice of the hearing decision is mailed to you, and we will schedule a hearing as soon as practicable.

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