

§ 423.2030 ALJ hearing procedures.

(a) *General rule.* A hearing is open to the enrollee and to other persons the ALJ considers necessary and proper.

(b) *At the hearing.* (1) The ALJ fully examines the issues, questions the enrollee and other witnesses, and may accept evidence that is material to the issues consistent with § 423.2018.

(2) The ALJ may limit testimony and argument at the hearing that are not relevant to an issue before the ALJ, that are repetitive of evidence or testimony already in the record, or that relate to an issue that has been sufficiently developed or on which the ALJ has already ruled. The ALJ may, but is not required to, provide the enrollee or representative with an opportunity to submit additional written statements and affidavits on the matter in lieu of testimony and/or argument at the hearing. The written statements and affidavits must be submitted within the time frame designated by the ALJ.

(3) If the ALJ determines that the enrollee or enrollee's representative is uncooperative, disruptive to the hearing, or abusive during the course of the hearing after the ALJ has warned the enrollee or representative to stop such behavior, the ALJ may excuse the enrollee or representative from the hearing and continue with the hearing to provide the participants with an opportunity to offer testimony and/or argument. If an enrollee or representative was excused from the hearing, the ALJ will provide the enrollee or representative with an opportunity to submit written statements and affidavits in lieu of testimony and/or argument at the hearing, and the enrollee or representative may request a recording of the hearing in accordance with § 423.2042 and respond in writing to any statements made by participants and/or testimony of the witnesses at the hearing. The written statements and affidavits must be submitted within the time frame designated by the ALJ.

(c) *Missing evidence.* The ALJ may also stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing.

(d) *Effect of new evidence on adjudication period.* If an enrollee, other than an unrepresented enrollee in a standard

appeal, submits evidence pursuant to paragraph (b) or (c) of this section, and an adjudication period applies to the appeal, the adjudication period specified in § 423.2016 is extended in accordance with § 423.2018(b) or (c), as applicable.

(e) *Continued hearing.* (1) A hearing may be continued to a later date. Notice of the continued hearing must be sent in accordance with § 423.2022, except that a waiver of notice of the hearing may be made in writing or on the record, and the notice is sent to the enrollee and participants who attended the hearing, and any additional potential participants the ALJ determines are appropriate.

(2) If the enrollee requests the continuance and an adjudication time frame applies to the appeal in accordance with § 423.2016, the adjudication period is extended by the period between the initial hearing date and the continued hearing date.

(f) *Supplemental hearing.* (1) The ALJ may conduct a supplemental hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence, obtain additional testimony, or address a procedural matter. The ALJ determines whether a supplemental hearing is necessary and if one is held, the scope of the hearing, including when evidence is presented and what issues are discussed. Notice of the supplemental hearing must be sent in accordance with § 423.2022, except that the notice is sent to the enrollee and participants who attended the hearing, and any additional potential participants the ALJ determines are appropriate.

(2) If the enrollee requests the supplemental hearing and an adjudication period applies to the appeal in accordance with § 423.2016, the adjudication period is extended by the period between the initial hearing date and the supplemental hearing date.

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§ 423.2032 Issues before an ALJ or attorney adjudicator.

(a) *General rule.* The issues before the ALJ or attorney adjudicator include all the issues for the appealed matter specified in the request for hearing that were brought out in the coverage