

unless the enrollee requesting the hearing agrees to waive such adjudication timeframe in writing.

(5) The ALJ may grant the request, with the concurrence of the Chief ALJ or designee if the request was for an in-person hearing, upon a finding of good cause and will reschedule the hearing for a time and place when the enrollee may appear in person or by video-teleconference before the ALJ. Good cause is not required for a request for video-teleconferencing hearing made by an unrepresented enrollee who filed the request for hearing and objects to an ALJ's offer to conduct a hearing by telephone.

(j) *Amended notice of hearing.* If the ALJ changes or will change the time and/or place of the hearing, an amended notice of hearing must be sent to the enrollee and CMS, the IRE, and/or the Part D plan sponsor in accordance with § 423.2022(a)(2).

[74 FR 65363, Dec. 9, 2009, as amended at 82 FR 5130, Jan. 17, 2017; 83 FR 16754, Apr. 16, 2018; 84 FR 19873, May 7, 2019]

**§ 423.2022 Notice of a hearing before an ALJ.**

(a) *Issuing the notice.* (1) After the ALJ sets the time and place of the hearing, the notice of the hearing will be mailed or otherwise transmitted in accordance with OMHA procedures to the enrollee and other potential participants, as provided in § 423.2020(c) at their last known addresses, or given by personal service, except to an enrollee or other potential participant who indicates in writing that he or she does not wish to receive this notice.

(2) The notice is mailed, transmitted, or served at least 20 calendar days before the hearing, except for expedited hearings where written notice is mailed, transmitted, or served at least 3 calendar days before the hearing, unless the enrollee or other potential participant agrees in writing to the notice being mailed, transmitted, or served fewer than 20 calendar days before the non-expedited hearing or 3 calendar days before the expedited hearing. For expedited hearings, the ALJ may orally provide notice of the hearing to the enrollee and other potential participants but oral notice must be followed

by an equivalent written notice within 1 calendar day of the oral notice.

(b) *Notice information.* (1) The notice of hearing contains—

(i) A statement that the issues before the ALJ include all of the issues brought out in the coverage determination or at-risk determination, redetermination, or reconsideration that were not decided entirely in the enrollee's favor and that were specified in the request for hearing; and

(ii) A statement of any specific new issues the ALJ will consider in accordance with § 423.2032.

(2) The notice will inform the enrollee that he or she may designate a person to represent him or her during the proceedings.

(3) The notice must include an explanation of the procedures for requesting a change in the time or place of the hearing, a reminder that the ALJ may dismiss the hearing request if the enrollee fails to appear at the scheduled hearing without good cause, and other information about the scheduling and conduct of the hearing.

(4) The enrollee will also be told if his or her appearance or that of any other witness is scheduled by video-teleconferencing, telephone, or in person. If the ALJ has scheduled the enrollee to appear at the hearing by video-teleconferencing, the notice of hearing will advise that the scheduled place for the hearing is a video-teleconferencing site and explain what it means to appear at the hearing by video-teleconferencing.

(5) The notice advises the enrollee that if he or she objects to appearing by video-teleconferencing or telephone, and wishes instead to have his or her hearing at a time and place where he or she may appear in person before the ALJ, he or she must follow the procedures set forth at § 423.2020(i) for notifying the ALJ of his or her objections and for requesting an in-person hearing.

(c) *Acknowledging the notice of hearing.* (1) If the enrollee or his or her representative does not acknowledge receipt of the notice of hearing, OMHA attempts to contact the enrollee for an explanation.