

evidence is submitted to SSA's OHA by claimants or their representatives in at least 40 percent of claims pending at the hearing level. (SSA requests or develops for additional evidence in approximately another 20 percent of cases.) Given this volume of cases involving additional evidence at the hearing level, evaluation of these cases by DDS medical and/or psychological consultants could either result in a revised favorable determination without a hearing, or at least present a clearer picture of the medical record for purposes of a hearing before an ALJ in a significant number of cases. For these purposes, the ALJ would accept the DDS medical and/or psychological consultant's analysis as evidence material to the issues, pursuant to 20 CFR 404.944 and 416.1444.

Including the DDS medical and/or psychological consultant's analysis of additional evidence in the record is consistent with considering DDS medical and psychological consultant opinion in adjudication at the OHA level (SSR 96-6p, 7/2/96). The analysis is expected to help ensure uniform decision making at all levels of administrative review within SSA by providing expert consideration of, and opinion on, the medical issues presented by the additional evidence, including, but not limited to, the existence and severity of the claimant's impairment(s), the existence and severity of the claimant's symptoms, whether the impairment meets or equals the requirements for any impairment listed in 20 CFR Part 404, Subpart P, Appendix 1, and the claimant's residual functional capacity. The analysis is also expected to help OHA focus any additional development it may consider necessary by indicating what issues raised in the additional evidence, if any, could be clarified by such development.

Policy Interpretation: Under 20 CFR 404.941 and 416.1441, OHA may return selected cases to the DDS for a prehearing case review when new medical evidence is received at the hearing level.

OHA may return a case to the DDS if all of the following criteria are met:

- The claimant requested a hearing regarding his or her entitlement to disability insurance benefits under title II of the Social Security Act (the Act), eligibility for supplemental security income based on disability under title XVI of the Act, or both;
- A hearing has not been held in the case;
- SSA received additional evidence in the case after the date of the reconsideration determination;

- The additional evidence is not duplicative and was not a result of SSA development; and

- SSA has not previously returned the case to the DDS for a prehearing case review.

The DDS will decide whether its determination may be revised based on the additional evidence when considered with the entire record. A revised determination may be wholly or partially favorable to the claimant.

If the DDS revises the determination, SSA will mail written notice of the revised determination to all parties to the hearing at their last known address. The notice will state the basis for the revised determination, and will advise all parties of their right to request a hearing on the revised determination within 60 days after the date of receiving the notice.

If the DDS revises its determination to a wholly favorable determination, the notice will also state that:

- The ALJ will dismiss the request for hearing unless the claimant or another party requests that the hearing proceed; and

- The request to proceed with the hearing must be made in writing within 30 days after the date the notice of the revised determination was mailed.

If the DDS revises its determination to a partially favorable determination, the notice will also state:

- What was not favorable in the revised determination; and
- That the hearing requested by the claimant will be held unless the claimant and all other parties inform SSA that they agree to dismiss the hearing request.

If the DDS does not revise its determination based on the additional evidence, the DDS will return the case to the ALJ with a medical and/or psychological consultant's analysis of the entire medical record, including the additional evidence, in a format appropriate for inclusion into the record. This analysis will be considered opinion evidence from a nonexamining source or sources, under the provisions of the regulations at 20 CFR 404.1527(f) and 416.927(f), and the guidelines in SSR 96-6p. The ALJ must consider the medical and/or psychological consultant's analysis by applying the rules in paragraphs (a) through (e) of those sections of the regulations, and must explain in the decision the weight given to the analysis.

Returning a case for a prehearing case review will not delay the scheduling of a hearing unless the claimant agrees to continue the review and delay the

hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the ALJ unless a favorable revised determination is in process, or the claimant and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

EFFECTIVE DATE: This Ruling is effective on August 8, 1997.

Cross-Reference: SSR 96-6p, "Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence."

[FR Doc. 97-20900 Filed 8-7-97; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of August 1, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST-97-2775

Date Filed: July 31, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC Comp 0140 dated July 9, 1997

Mail Vote 880 (Reso 010v-Fares from Zimbabwe)

1st Amendment to Mail Vote

2nd Amendment to Mail Vote

Intended effective date: August 15, 1997.

Docket Number: OST-97-2777

Date Filed: July 31, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC23 Telex Mail Vote 878

Mail Vote 878 (Reso 010t-Hong Kong-London Fares)

Amendment to Mail Vote

Intended effective date: August 15, 1997.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97-20963 Filed 8-7-97; 8:45 am]

BILLING CODE 4910-62-P