

§ 405.315

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 us for more time to request a hearing. Your request for an extension of time must be in writing and must give the reasons the request for review was not filed, or cannot be filed, in time. If you show us that you have good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 405.20 of this part.

(e) *Waiver of the right to appear.* After you submit your request for a hearing, 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.

[71 FR 16446, Mar. 31, 2006, as amended at 73 FR 2415, Jan. 15, 2008]

§ 405.315 Time and place for a hearing before an administrative law judge.

(a) *General.* The administrative law judge sets the time and place for the hearing. The administrative law judge will notify you of the time and place of the hearing at least 75 days before the date of the hearing, unless you agree to a shorter notice period. If it is necessary, the administrative law judge may change the time and place of the hearing. If the administrative law judge changes the time and place of the hearing, he or she will send you reasonable notice of the change.

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(c) *Determination regarding in-person or video teleconference appearance of witnesses at the hearing.* In setting the

20 CFR Ch. III (4-1-11 Edition)

time and place of the hearing, the administrative law judge will determine whether you or any other person will appear at the hearing in person or by video teleconferencing. If you object to appearing personally by video teleconferencing, we will re-schedule the hearing to a time and place at which you may appear in person before the administrative law judge. If you object to any other person appearing by video teleconferencing, the administrative law judge will decide whether to have that person appear in person or by video teleconference. Section 405.350 explains how you and witnesses appear and present evidence at hearings. Except when you object to appearing by video teleconferencing as described below, the administrative law judge will direct that a person's appearance will be conducted by video teleconferencing when:

(1) Video teleconferencing technology is available,

(2) Use of video teleconferencing technology would be more efficient than conducting an examination of a witness in person, and

(3) The administrative law judge does not determine that there is another reason why video teleconferencing should not be used.

§ 405.316 Notice of a hearing before an administrative law judge.

(a) *Issuing the notice.* After the administrative law judge sets the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service. We will mail or serve the notice at least 75 days before the date of the hearing, unless you agree to a shorter notice period.

(b) *Notice information.* The notice of hearing will tell you:

(1) The specific issues to be decided,

(2) That you may designate a person to represent you during the proceedings,

(3) How to request that we change the time or place of your hearing,

(4) That your hearing request may be dismissed if you fail to appear at your scheduled hearing without good reason under § 405.20,

Social Security Administration

§ 405.325

(5) Whether your or a witness's appearance will be by video teleconferencing, and

(6) That you must submit all evidence that you wish to have considered at the hearing no later than five business days before the date of the scheduled hearing, unless you show that your circumstances meet the conditions described in §405.331 for missing the deadline.

(c) *Acknowledging the notice of hearing.* In the notice of hearing, we will ask you to return a form to let us know that you received the notice. If you or your representative do(es) not acknowledge receipt of the notice of hearing, we will attempt to contact you to see if you received it. If you let us know that you did not receive the notice of hearing, we will send you an amended notice by certified mail.

§ 405.317 Objections.

(a) *Time and place.* (1) If you object to the time or place of your hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the date set for the hearing, but no later than 30 days after receiving notice of the hearing. You must state the reason(s) for your objection and propose a time and place you want the hearing to be held.

(2) The administrative law judge will consider your reason(s) for requesting the change and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we previously granted to you any changes in the time or place of your hearing.

(b) *Issues.* If you believe that the issues contained in the hearing notice are incorrect, you should notify the administrative law judge in writing at the earliest possible opportunity, but must notify him or her no later than five business days before the date set for the hearing. You must state the reason(s) for your objection. The administrative law judge will make a decision on your objection either at the

hearing or in writing before the hearing.

§ 405.320 Administrative law judge hearing procedures—general.

(a) *General.* A hearing is open only to you and to other persons the administrative law judge considers necessary and proper. The administrative law judge will conduct the proceedings in an orderly and efficient manner. At the hearing, the administrative law judge will look fully into all of the issues raised by your claim, will question you and the other witnesses, and will accept any evidence relating to your claim that you submit in accordance with §405.331.

(b) *Conduct of the hearing.* The administrative law judge will decide the order in which the evidence will be presented. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she decides that there is evidence missing from the record that must be obtained before the hearing may continue. At any time before the notice of the decision is sent to you, the administrative law judge may hold a supplemental hearing in order to receive additional evidence, consistent with the procedures described below. If an administrative law judge requires testimony or other evidence from a medical, psychological, or vocational expert in your claim, the Medical and Vocational Expert Unit (see §405.10 of this part) will provide an appropriate expert who has not had any prior involvement in your claim.

§ 405.325 Issues before an administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues raised by your claim, regardless of whether or not the issues may have already been decided in your favor.

(b) *New issues.* Any time after receiving the hearing request and before mailing notice of the hearing decision, the administrative law judge may consider a new issue if he or she, before deciding the issue, provides you an opportunity to address it. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request