

Social Security Administration

§ 422.203

§§ 416.1414 through 416.1418 of this chapter is available, the reconsidered determination may be issued by a disability hearing officer or the Associate Commissioner for Disability Programs or his or her delegate. After the initial determination has been reconsidered, we will mail you written notice and inform you of your right to a hearing before an administrative law judge (*see* § 422.201).

[76 FR 24812, May 3, 2011]

Subpart C—Procedures of the Office of Disability Adjudication and Review

AUTHORITY: Secs. 205, 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 421, and 902(a)(5)); 30 U.S.C. 923(b).

§ 422.201 Material included in this subpart.

This subpart describes in general the procedures relating to hearings before an administrative law judge of the Office of Disability Adjudication and Review, review by the Appeals Council of the hearing decision or dismissal, and court review in cases decided under the procedures in parts 404, 405, 408, 410, and 416 of this chapter. It also describes the procedures for requesting such hearing or Appeals Council review, and for instituting a civil action for court review for cases decided under these parts. Procedures related to hearings before an administrative law judge, review by the Appeals Council, or court review in claims adjudicated under the procedures in part 405 of this chapter are explained in subparts D, E, and F of part 405 of this chapter. For detailed provisions relating to hearings before an administrative law judge, review by the Appeals Council, and court review, see the following references as appropriate to the matter involved:

(a) Title II of the Act, §§ 404.929 through 404.983 of this chapter;

(b) Title VIII of the Act, §§ 408.1040 through 408.1060 of this chapter;

(c) Title XVI of the Act, §§ 416.1429 through 416.1483 of this chapter;

(d) Part B of title IV of the Federal Mine Safety and Health Act of 1977 as amended, §§ 410.630 through 410.670.

[41 FR 53791, Dec. 9, 1976, as amended at 44 FR 34942, June 18, 1979; 54 FR 4268, Jan. 30, 1989; 71 FR 16462, Mar. 31, 2006; 76 FR 24812, May 3, 2011]

§ 422.203 Hearings.

(a) *Right to request a hearing.* (1) After a reconsidered or a revised determination (i) of a claim for benefits or any other right under title II of the Social Security Act; or (ii) of eligibility or amount of benefits or any other matter under title XVI of the Act, except where an initial or reconsidered determination involving an adverse action is revised, after such revised determination has been reconsidered; or (iii) as to entitlement under part A or part B of title XVIII of the Act, or as to the amount of benefits under part A of such title XVIII (where the amount in controversy is \$100 or more); or of health services to be provided by a health maintenance organization without additional costs (where the amount in controversy is \$100 or more); or as to the amount of benefits under part B of title XVIII (where the amount in controversy is \$500 or more); or as to a determination by a peer review organization (PRO) under title XI (where the amount in controversy is \$200 or more); or as to certain determinations made under section 1154, 1842(1), 1866(f)(2), or 1879 of the Act; any party to such a determination may, pursuant to the applicable section of the Act, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under part B of title IV (Black Lung benefits) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 921 through 925), a party to the determination may file a written request for hearing on the determination.

(2) After (i) a reconsidered or revised determination that an institution, facility, agency, or clinic does not qualify as a provider of services, or (ii) a determination terminating an agreement with a provider of services, such institution, facility, agency, or clinic may, pursuant to section 1866 of the Act, file a written request for a hearing on the determination.

(3) After (i) a reconsidered or revised determination that an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility or other person does not meet the conditions for coverage of its services or (ii) a determination that it no longer meets such conditions has been made, such laboratory, supplier, treatment facility may, under 42 CFR 498.40 of this chapter, file a written request for a hearing on the determination. (For hearing rights of independent laboratories, suppliers of portable X-ray services, and end-stage renal disease treatment facilities and other person see 42 CFR 498.5.)

(b) *Request for hearing.* (1) A request for a hearing under paragraph (a) of this section may be made on Form HA-501, “Request for Hearing,” or Form HA-501.1, “Request for Hearing, part A Hospital Insurance Benefits,” or by any other writing requesting a hearing. The request shall be filed at an office of the Social Security Administration, usually a district office or a branch office, or at the Veterans’ Administration Regional Office in the Philippines (except in title XVI cases), or at a hearing office of the Office of Hearings and Appeals, or with the Appeals Council. A qualified railroad retirement beneficiary may, if he prefers, file a request for a hearing under part A of title XVIII with the Railroad Retirement Board. Form HA-501 may be obtained from any social security district office or branch office, from the Office of Hearings and Appeals, Social Security Administration, P.O. Box 3200, Arlington, VA 22203, or from any other office where a request for a hearing may be filed.

(2) Unless for good cause shown an extension of time has been granted, a request for hearing must be filed within 60 days after the receipt of the notice of the reconsidered or revised determination described in 42 CFR 498.3 (b) and (c) (see §§ 404.933, 410.631, and 416.1433 of this chapter and 42 CFR 405.722, 498.40, and 417.260.)

(c) *Hearing decision or other action.* Generally, the administrative law judge will either decide the case after hearing (unless hearing is waived) or, if appropriate, dismiss the request for

hearing. With respect to a hearing on a determination under paragraph (a)(1) of this section, the administrative law judge may certify the case with a recommended decision to the Appeals Council for decision. If the determination on which the hearing request is based relates to the amount of benefits under part A or B of title XVIII of the Act, to health services to be provided by a health maintenance organization without additional costs, or to PRO determinations, the administrative law judge shall dismiss the request for hearing if he or she finds that the amount in controversy is less than \$100 for appeals arising under part A or concerning health maintenance organization benefits; less than \$200 for appeals arising from PRO determinations; and less than \$500 for appeals arising under part B. The administrative law judge, or an attorney advisor under §§ 404.942 or 416.1442 of this chapter, must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record.

[41 FR 53791, Dec. 9, 1976, as amended at 44 FR 34942, June 18, 1979; 51 FR 308, Jan. 3, 1986; 54 FR 4268, Jan. 30, 1989; 73 FR 76945, Dec. 18, 2008]

§ 422.205 Review by Appeals Council.

(a) Any party to a hearing decision or dismissal may request a review of such action by the Appeals Council. The Health Care Financing Administration or, as appropriate, the Office of the Inspector General is a party to a hearing on a determination under § 422.203 (a)(2) and (a)(3) and to administrative appeals involving matters under section 1128(b)(6) of the Act (see 42 CFR 498.42). This request may be made on Form HA-520, “Request for Review of Hearing Decision/Order,” or by any other writing specifically requesting review. Form HA-520 may be obtained from any social security district office or branch office, from the Office of Hearings and Appeals Social Security Administration, P.O. Box 3200, Arlington, VA 22203, or at any other office where a request for a hearing may be filed. (For time and place of filing, see §§ 404.968, 410.661, and 416.1468 of this chapter, and 42 CFR 405.724, 498.82 and 417.261.)