

§ 283.16

(k) *Exhibits.* Four copies of each exhibit shall be filed with the ALJ. However, where there are more than two parties in the appeal, an additional copy shall be filed for each additional party. A true copy of an exhibit may be substituted for the original.

(l) *Official records or documents.* An official government record or document or entry therein, if admissible for any purpose, shall be admissible in evidence without the production of the person who made or prepared the same, and shall be prima facie evidence of the relevant facts stated therein. Such record or document shall be evidenced by an official publication thereof or by a copy certified by a person having legal authority to make such certification.

(m) *Official notice.* Official notice shall be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character. Provided, that the parties shall be given adequate opportunity to show that such facts are erroneously noticed.

(n) *Offer of proof.* Whenever evidence is excluded by the ALJ, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence excluded. If the evidence consists of a brief oral statement, it shall be included in the transcript in toto. If the evidence consists of a document or other exhibit, it shall be marked for identification and inserted in the hearing record. In either event, if the Judicial Officer, upon review, determines that the ALJ's ruling excluding the evidence was erroneous and prejudicial, the evidence shall be considered a part of the transcript and hearing record. If the Judicial Officer determines that the ALJ's ruling excluding the evidence was erroneous and prejudicial, and that it would be inappropriate to have such evidence considered a part of the hearing record without reopening the hearing, the Judicial Officer may direct that the hearing be reopened to permit the taking of such evidence or for any other purpose in connection with the excluded evidence.

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(o) *Transcript.* Hearings shall be recorded and transcribed verbatim. The party requesting the hearing shall bear the transcription cost of producing the transcript and the duplication cost for one transcript provided to the ALJ and to the other parties to the appeal.

§ 283.16 Consolidation of issues.

Similar issues involved in appeals by two or more State agencies may be consolidated upon motion by the State agencies, FNS, or at the discretion of the ALJ if it is decided that consolidation would help to promote administrative efficiency.

(a) *Disposition of consolidated issues.* If the ALJ orders consolidation, the issues consolidated will be considered first. If a hearing has been requested by any of the parties that have had issues consolidated, arguments on the consolidated issues will be heard before arguments on dissimilar issues. The ALJ will take the information into consideration along with arguments on other issues in preparing initial decisions for QC appeals in which some issues have been consolidated.

(b) *Initial decision.* (1) If the ALJ decides the evidence and arguments by the State agencies on the consolidated issues cannot be overcome by the evidence presented by FNS and are sufficient to grant the relief requested by a State agency or all State agencies in which the issue is involved, the ALJ shall prepare an initial decision as provided in § 283.17(c).

(2) FNS may file a motion for reconsideration pursuant to § 283.17(d) or seek review by the Judicial Officer in accordance with § 283.20.

§ 283.17 Post-hearing procedure.

(a) *Corrections to transcript.* (1) At any time, but not later than the time fixed for filing proposed findings of fact, conclusions of law, order and briefs, any party may file a motion proposing corrections to the transcript.

(2) Unless a party files such a motion in the matter prescribed, the transcript shall be presumed to be a true, correct, and complete transcript of the testimony given at the hearing and to contain an accurate description or reference to all exhibits received in evidence and made part of the hearing