

§ 498.205

20 CFR Ch. III (4-1-04 Edition)

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact; and

(13) Conduct any conference or argument in person, or by telephone upon agreement of the parties.

(c) The ALJ does not have the authority to:

(1) Find invalid or refuse to follow Federal statutes or regulations, or delegations of authority from the Commissioner;

(2) Enter an order in the nature of a directed verdict;

(3) Compel settlement negotiations;

(4) Enjoin any act of the Commissioner or the Inspector General; or

(5) Review the exercise of discretion by the Office of the Inspector General to seek to impose a civil monetary penalty or assessment under §§ 498.100 through 498.132.

[61 FR 65469, Dec. 13, 1996]

§ 498.205 Ex parte contacts.

No party or person (except employees of the ALJ's office) will communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

[61 FR 65469, Dec. 13, 1996]

§ 498.206 Prehearing conferences.

(a) The ALJ will schedule at least one prehearing conference, and may schedule additional prehearing conferences as appropriate, upon reasonable notice to the parties.

(b) The ALJ may use prehearing conferences to address the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact as to the contents and authenticity of documents and deadlines for challenges, if any, to the authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at a hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) The time and place for the hearing and dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery of documents as permitted by this part;

(9) Such other matters as may tend to encourage the fair, just, and expeditious disposition of the proceedings; and

(10) Potential settlement of the case.

(c) The ALJ shall issue an order containing the matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

[61 FR 65469, Dec. 13, 1996]

§ 498.207 Discovery.

(a) For the purpose of inspection and copying, a party may make a request to another party for production of documents which are relevant and material to the issues before the ALJ.

(b) Any form of discovery other than that permitted under paragraph (a) of this section, such as requests for admissions, written interrogatories and depositions, is not authorized.

(c) For the purpose of this section, the term documents includes information, reports, answers, records, accounts, papers, memos, notes and other data and documentary evidence. Nothing contained in this section will be interpreted to require the creation of a document, except that requested data stored in an electronic data storage system will be produced in a form accessible to the requesting party.

(d)(1) A party who has been served with a request for production of documents may file a motion for a protective order. The motion for protective order shall describe the document or class of documents to be protected, specify which of the grounds in § 498.207(d)(2) are being asserted, and explain how those grounds apply.