

## Social Security Administration

## § 404.933

### HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE

#### § 404.929 **Hearing before an administrative law judge—general.**

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person or by video teleconferencing, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, either in person or by video teleconferencing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

[68 FR 5218, Feb. 3, 2003]

#### § 404.930 **Availability of a hearing before an administrative law judge.**

(a) You or another party may request a hearing before an administrative law judge if we have made—

- (1) A reconsidered determination;
- (2) A revised determination of an initial determination, unless the revised determination concerns the issue of whether, based on medical factors, you are disabled;
- (3) A reconsideration of a revised initial determination concerning the issue of whether, based on medical factors, you are disabled;
- (4) A revised reconsidered determination;
- (5) A revised decision based on evidence not included in the record on which the prior decision was based;
- (6) An initial determination denying waiver of adjustment or recovery of an overpayment based on a personal conference (see § 404.506); or

(7) An initial determination denying waiver of adjustment or recovery of an overpayment based on a review of the written evidence of record (see § 404.506), and the determination was made concurrent with, or subsequent to, our reconsideration determination regarding the underlying overpayment but before an administrative law judge holds a hearing.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

(c) If you received a reconsidered determination instead of a decision by a Federal reviewing official as a result of § 405.240 of this chapter, we will apply the procedures contained in subpart D of part 405 of this chapter to your request for a hearing before an administrative law judge.

[45 FR 52081, Aug. 5, 1980, as amended at 51 FR 303, Jan. 3, 1986; 61 FR 56132, Oct. 31, 1996; 73 FR 2415, Jan. 15, 2008]

#### § 404.932 **Parties to a hearing before an administrative law judge.**

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 404.930. In addition, a person who shows in writing that his or her rights may be adversely affected by the decision may request a hearing.

(b) *Who are parties to a hearing.* After a request for a hearing is made, you, the other parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

[45 FR 52081, Aug. 5, 1980, as amended at 51 FR 303, Jan. 3, 1986]

#### § 404.933 **How to request a hearing before an administrative law judge.**

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

- (1) The name and social security number of the wage earner;